



# NATIONAL CRIME VICTIM LAW INSTITUTE

The information in this document is educational and intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. Any information provided is not intended to apply to a specific legal entity, individual or case. NCVLI does not warrant, express or implied, any information it provides, nor is it creating an attorney-client relationship with the recipient.

## TEN COMMON VICTIMS' RIGHTS<sup>1</sup>

This resource provides a brief overview of ten of the most common victims' rights. This overview is not a substitute for jurisdiction-specific research as the rights discussed here, while common, vary in scope and specificity in each jurisdiction. In addition, every jurisdiction has codified rights beyond the ten discussed here, legislatures continue to pass laws affording new rights to victims<sup>1</sup>, and court cases are evolving victims' rights jurisprudence. Before describing the rights themselves, two legal concepts are necessary to fully understand the impact of the rights: standing and vesting.

### *Standing*

An individual who meets the legal definition of "victim" has legal standing to exercise their rights. Legal standing refers to a person's ability to independently assert and seek enforcement their rights in a court. Meaningful victims' rights require that victims have standing to assert their rights in trial and appellate court proceedings.

To ensure victims' rights are as meaningful as possible, it is best practice for victims to have independent legal counsel throughout criminal justice process. While some jurisdictions expressly recognize a victim's right to have counsel, any person with rights may be represented by counsel.

The federal government and many states expressly recognize victim standing in trial and/or appellate courts.<sup>2</sup> In jurisdictions that lack such express standing provisions, courts will apply jurisdiction-specific standing analysis to determine whether the victim may assert their rights.<sup>3</sup> Although this analysis varies by jurisdiction, the three-part test that the United States Supreme Court established to determine whether a litigant has standing to obtain judicial review in a federal trial court provides a general framework. Under this test, standing requires: (1) that there is an injury in fact; (2) that there is a causal connection between the injury and the complained of conduct; and (3) that a favorable decision would "likely" redress the injury.<sup>4</sup> Generally, if a person meets the federal three-prong standing test, they will meet a state's standing requirements.<sup>5</sup>

Standing at the trial court level generally means that a victim can file a motion in the criminal court asserting their right or requesting a remedy for a violation of their right. Appellate-level standing generally means that victims may challenge a violation of their right(s) by seeking appellate review to compel rights enforcement. The form this request takes depends upon a jurisdiction's laws and other factors, such as whether the victim is seeking remedial or

---

<sup>1</sup> This resource provides an overview of common victims' rights in state and federal criminal justice systems, it does not address victims' rights in either the military criminal justice system or tribal systems.

prospective relief. Some jurisdictions expressly authorize procedures for challenging rights violations in their victims' rights laws;<sup>6</sup> however, the absence of an explicit provision for appellate review does not preclude victims from challenging rights violations.<sup>7</sup> Often the legal device used for appellate review is a writ; examples of the types of writs that a victim might use to seek enforcement of their rights include writs of mandamus,<sup>8</sup> writs of prohibition,<sup>9</sup> writs of certiorari,<sup>10</sup> and supervisory writs.<sup>11</sup>

### ***Vesting of Rights***

Victims' rights are implicated at all stages in the criminal justice process, starting from the commission of the crime. It is necessary to analyze a jurisdiction's laws to determine when in the process certain rights vest and similarly when they may be divested. For instance, in some jurisdictions, victims' rights attach upon victimization<sup>12</sup> and may continue through the post-conviction process.<sup>13</sup> Specific rights may also vest at specific points in the process, such as the right to notice of post-conviction proceedings.<sup>14</sup>

In addition, jurisdictions vary regarding whether a victim must affirmatively request some rights to activate them. An example of a right that may have a request requirement is the right to notice of proceedings and other criminal justice events.<sup>15</sup> In some jurisdictions the right to notice is automatic<sup>16</sup> and the victim must opt out of receiving notice if that is their preference; in other jurisdictions, notice is only provided to victims "upon request."<sup>17</sup> The form of this request varies by jurisdiction; for instance, in some states, this request must be in writing;<sup>18</sup> and, in at least one state, the victim must "register" with the prosecutor to receive notice.<sup>19</sup> It should be noted, however, that failure to request a right is not an affirmative waiver of the right if the state does not inform the victim of their rights and responsibilities.<sup>20</sup>

## ***The Rights in Summary***

### **1. Rights to Be Treated with Fairness, Dignity and Respect**

Jurisdictions often afford victims "a right to be treated with fairness, dignity and respect", which actually contains three separate rights that entitle victims to have their rights and interests considered throughout the justice system.<sup>21</sup> Although expressed broadly, these are substantive rights.<sup>22</sup>

"[O]f course, fairness includes the notion of due process." 150 Cong. Rec. S10910-01, S10911 (2004) (statement of Sen. Jon Kyl).

Focusing on fairness<sup>23</sup>, the federal government and a majority of states afford victims the right to fair treatment within the criminal justice process.<sup>24</sup> Often the right to fair treatment is articulated in connection with a right to dignity.<sup>25</sup> In some jurisdictions, the right to fairness is also articulated in connection with a mandate to consider the victim's safety, dignity and privacy.<sup>26</sup>

As the United States Supreme Court has noted, at the heart of procedural due process is the idea that "[p]arties whose rights are to be affected are entitled to be heard; and, in order that they may

enjoy that right they must first be notified.”<sup>27</sup> This means that a victim’s right to fairness includes the [right to notice](#) and an opportunity [to be heard](#) whenever their rights are at issue.

The broad right to fair treatment has influenced judicially created criminal procedure.<sup>28</sup> For instance, courts have relied on the right to fair treatment when concluding: that prosecutors must consult victims prior to moving to dismiss a case and to report the victims’ views on the dismissal to the court;<sup>29</sup> that there is a presumption that a victim’s attorney should be permitted to sit in the well of the courtroom when the victim’s constitutional or statutory rights are at issue in a court proceeding;<sup>30</sup> that an incarcerated victim be allowed to wear civilian clothes with no visible restraints during trial;<sup>31</sup> and that the abatement of proceedings *ab initio* is an inappropriate resolution of a case when a defendant has died and the proceedings implicate victims’ rights and interests.<sup>32</sup>

## **2. Right to Privacy**

A victim’s right to privacy is the right to protective measures that prevent or limit access to a victim’s personal information. A victim’s privacy is implicated when either party in a criminal case seeks information about or from the victim, such as the victim’s mental health, medical and other professional records; prior sexual history; social media accounts and posts; and telephone or computer files. Any disclosure of the victim’s identity or locating information in court filings or proceedings can also jeopardize a victim’s privacy rights.

Some jurisdictions explicitly afford or recognize a right to privacy in their victims’ rights laws; such rights are typically expressed either as a general right to privacy<sup>33</sup> or as a right to be treated with respect for the victim’s privacy.<sup>34</sup> Some states explicitly provide all individuals – including crime victims – with a constitutional right to privacy.<sup>35</sup> The United States Constitution affords individuals, including victims, with an explicit privacy protection in the form of being free from unreasonable government intrusions into their person, home, papers and effects<sup>36</sup>, and an implicit general right to privacy in personal information.<sup>37</sup>

In addition to broad privacy rights, states and the federal government provide for victim privacy through privacy-related statutory provisions and/or rules, such as: rape shield laws;<sup>38</sup> evidentiary privileges;<sup>39</sup> laws affording protection over victim identifying information;<sup>40</sup> address confidentiality statutes;<sup>41</sup> provisions guaranteeing victims the right to refuse a defense request for interview and/or discovery;<sup>42</sup> and laws limiting the release of victim information in response to a public records request.<sup>43</sup>

The right to privacy is, at times, implicated in victim protection to the extent that disclosure of a victim’s identity, locating information and other personal details can jeopardize the victim’s physical, emotional or psychological well-being.

For many victims “privacy is like oxygen; it is a pervasive, consistent need at every step of recovery. Within the context of the legal system, if a victim is without privacy, all other remedies are moot.” Ilene Seidman, Susan Vickers, *The Second Wave: An Agenda for the Next Thirty Years of Rape Law Reform*, 38 Suffolk U. L. Rev. 467, 473 (2005).

### **3. Right to Notice**

The right to notice is at the heart of a victim’s participatory status within the criminal justice process because, if a victim is unaware of their rights or proceedings in which those rights are implicated, the victim cannot participate in the system.<sup>44</sup> A victim’s right to notice is the right to be advised, in a reasonable, accurate and timely manner of any proceedings<sup>45</sup> or other specific events in the justice process that implicates the victim’s rights or interests, such as a defendant’s release or escape from custody.<sup>46</sup> The right to notice overlaps with – but is distinct from – the [right to information](#), which generally refers to a crime victim’s right to be informed about their rights, how the criminal justice system works, and available resources.

### **4. Right to Confer**

A victim’s right to confer is the right to gather information from and to provide information to the prosecution regarding the victim’s rights or interests, significant stages of the criminal justice process and the disposition of the case.<sup>47</sup> Many states provide victims with a right to confer with the prosecution concerning charging or disposition,<sup>48</sup> as does the federal government.<sup>49</sup> Some jurisdictions protect victims’ right to conferral by imposing an affirmative obligation on prosecutors to offer victims an opportunity to share their opinion with the prosecutor regarding the disposition of a case, including their views on plea or sentence negotiations and/or participation in diversion programs.<sup>50</sup>

Conferring with the prosecution early in a case is necessary to protect victims’ rights and interests.<sup>51</sup> Indeed, the timing of the conferral is critical because so many criminal cases are resolved by a plea agreement; for the right to confer to be meaningful, the conferral must occur before the government reaches a binding plea agreement with the defendant. Courts have recognized that failing to afford the right to confer prior to reaching a plea agreement or a final disposition violates the right.<sup>52</sup> Additionally, early conferral can provide victims with timely notice of the types of information that they need to retain or gather to effectuate their other rights, such as the documentation necessary to support a restitution request.

“A criminal defendant has no constitutional right to exclude [victims] from the courtroom.”

*See United States v. Edwards*, 526 F.3d 747, 758 (11th Cir. 2008).

### **5. Right to Be Present**

A victim’s right to be present is the right to choose to attend – in person or virtually – criminal justice proceedings related to the investigation, prosecution and detention of the defendant, as well as other proceedings related to the victim’s rights and interests. An overwhelming majority of states guarantee crime victims a version of the right to be present at trial and/or other criminal proceedings,<sup>53</sup> as does the federal government.<sup>54</sup>

Depending on the jurisdiction, a victim’s right to be present at trial may be absolute<sup>55</sup> or the right may be subject to certain qualifications. Such qualifications vary across jurisdictions and include

instances where the court finds that the victim's presence would interfere with the defendant's constitutional rights, including the rights to due process and a fair trial<sup>56</sup> or affect the victim's testimony.<sup>57, 58</sup> In some jurisdictions, a victim's right to be present is subject to the court's discretion.<sup>59</sup> In jurisdictions where there is a qualified right to be present, victim presence may be limited to certain circumstances, such as when it is practicable<sup>60</sup> or after the victim testifies.<sup>61</sup>

Courts have consistently concluded that mere victim presence (as opposed to conduct while present) does not violate a defendant's federal constitutional rights.<sup>62</sup> Further, in most jurisdictions, passage of constitutional and statutory rights to be present effectively abrogated court sequestration rules as they apply to crime victims.<sup>63</sup>

## **6. Right to Be Heard**

A victim's right to be heard is the right to express the victim's views to the court and other entities tasked with making decisions related to a criminal case and/or accused/convicted person. Depending on the jurisdiction, the explicit right to be heard can apply to all proceedings implicating victims' rights<sup>64</sup> or only to certain proceedings, such as proceedings related to: defendant's pretrial release;<sup>65</sup> the disposition of the case (*e.g.*, plea hearings, change of plea hearings, sentencing);<sup>66</sup> a person's release from supervision (*e.g.*, parole hearings);<sup>67</sup> or requests for disclosure of the victim's information and records (*e.g.*, hearings involving subpoenas for the victim's records<sup>68</sup>). Some jurisdictions also provide victims with an explicit right to be heard in contexts other than court proceedings; for instance, many jurisdictions afford victims the right to provide information to entities conducting presentence investigations regarding the impact of the crime and/or any sentencing recommendations.<sup>69</sup>

Notably, while the rights to be heard at plea and to be heard at sentencing are often separate statutory or constitutional provisions, the right to be heard at sentencing implicitly includes the right to be heard at plea because the right to be heard at sentencing may only be meaningful if exercised prior to a defendant's plea.

Even when not explicit, the right to be heard is implicated when a victim's rights or interests are at stake in a proceeding under traditional notions of due process.<sup>70</sup>

Some jurisdictions explicitly provide for how a victim may exercise their right to be heard. Some of these jurisdictions specify that victims may exercise their right to be heard through written and/or oral statements,<sup>71</sup> while others expressly provide victims with the option of choosing the method for exercising their right to be heard.<sup>72</sup> When this option is not explicit, unless the right is specifically limited by constitution, statute, or rule, the victim may elect the method by which they wish to be heard.<sup>73</sup> For example, a victim may exercise their right to be heard regarding sentencing through a sentencing memorandum, victim impact statement and/or presentence investigation report. Victims may also exercise their right to be heard through court filings.<sup>74</sup> Each of these exercises of the right will be distinct due to their differences in purpose, audience and timing.

There are various considerations to analyze when drafting a victim impact statement, such as the propriety of including photos, video, and music. These and other issues are addressed in NCVLI's publication, [\*Considerations When Advising victims about methods for exercising their right to be heard at sentencing.\*](#)

### ***Victim Impact Statements***

One specific way for victims to be heard is by giving a victim impact statement at sentencing. Most states afford victims the unqualified right to make a statement at sentencing,<sup>75</sup> as does the federal government.<sup>76</sup> A minority of states place some qualifications on the right.<sup>77</sup>

## **7. Right to Reasonable Protection**

A victim's right to reasonable protection is the right to safety from the accused and those acting on behalf of the accused during and after the victim's involvement with the criminal justice system. This right is generally reflected in constitutional and statutory provisions that address issues of the victim's physical safety, as well as their mental and emotional health.

A number of states provide victims with a broad constitutional right to reasonable protection.<sup>78</sup> Federal law offers a similarly broad right to reasonable protection from the accused.<sup>79</sup> Many states further protect victims through constitutional and statutory provisions guaranteeing the right to be free from intimidation, harassment, or abuse.<sup>80</sup> Some states' victims' rights laws require that courts generally treat victims with respect for their safety,<sup>81</sup> while some take a narrower approach and specifically require that courts take victim safety into account when considering a defendant's release from custody and/or when setting bond.<sup>82</sup>

Complementing these explicit protection rights, many states afford protection to victims by providing them with information and/or notice that is sufficient to allow them take steps to ensure their own protection. For instance, state statutes include the [right to notice](#) of the convicted person's: release<sup>83</sup> or escape<sup>84</sup> from custody and/or clemency,<sup>85</sup> as does federal law.<sup>86</sup> Victim protection is also available through a myriad of other laws, including: laws providing for no contact orders as a condition of release;<sup>87</sup> laws governing civil orders of protection;<sup>88</sup> [the right to be heard](#) at bail and other release proceedings regarding the dangerousness of the offender; prohibitions on compelling disclosure of personal or contact information during testimony;<sup>89</sup> and the right to a separate victim waiting area in the courthouse.<sup>90</sup>

## **8. Right to Information**

A victim's right to information is the right to be told about victims' rights<sup>91</sup> and services, the operation of the criminal justice system and the relevant details of a particular case. Jurisdictions vary in how they frame this right. Some of the specific types of information to which victims may expressly be entitled include information about: the justice process and the victim's role in

the process;<sup>92</sup> the status of the criminal case;<sup>93</sup> the final disposition of the case;<sup>94</sup> and victims' rights.<sup>95</sup> Some jurisdictions provide victims the right to information contained in a presentence report, transcripts of court proceedings<sup>96</sup> and copies of police reports related to their victimization.<sup>97</sup>

The right to information is critical to victims' ability to navigate the criminal justice process and understand how and when to exercise their other rights.<sup>98</sup> Therefore, even in jurisdictions that do not explicitly provide the right to information, other rights – such as the [right to confer](#) with the prosecutor or [the right to be treated with fairness, dignity and respect](#) – necessarily include the right to information about the victim's case. In addition, other victim's rights, such as the right [to notice](#), when properly afforded, require that information about a victim's case be provided to the victim on an ongoing basis. For instance, in jurisdictions that do not expressly afford victims the right to access information contained in a presentence report, victims may argue that such access is necessary to meaningfully exercise their [rights to be treated with fairness, dignity and respect, to be heard](#) at sentencing and [to restitution](#).<sup>99</sup>

In addition to affording victims a right to information, many jurisdictions place an affirmative obligation on law enforcement personnel or prosecutors to provide victims with information about available resources, such as medical services, social services, crisis or emergency services, and/or compensation benefits.<sup>100</sup>

## **9. Right to Timely Disposition**

A victim's right to a prompt disposition is the right to the final resolution of the case involving their victimization without unreasonable delay in pre- or post-conviction processes. Whether a delay in proceedings is unreasonable is often fact-specific.<sup>101</sup>

The federal government and a majority of states provide crime victims some version of a constitutional and/or statutory right to the timely disposition of a criminal case.<sup>102</sup> Jurisdictions vary in how they articulate this right; some refer to it as a right to a “prompt,” “speedy,” or “timely” disposition and others articulate it as a right to proceedings “free from unreasonable delay.”

The federal government and at least 18 states recognize child-victims' heightened interest in avoiding case delays through provisions that call for expediting or otherwise prioritizing certain, if not all, cases involving this victim population.<sup>103</sup> Some jurisdictions also recognize a heightened interest in the prompt resolution of a case for other vulnerable victim populations, such as victims over age 65 or dependent adults, through similar provisions.<sup>104</sup>

Delays in the resolution of a case can implicate victims' [right to be treated with fairness, dignity and respect](#).<sup>105</sup> Some jurisdictions expressly require that courts take victims' interests and opinions into account when making scheduling decisions;<sup>106</sup> the right of victims to have such interests and opinions considered is implicit in their rights to a prompt disposition<sup>107</sup> and [to be heard](#).

## **10. Right to Restitution**

A victim's right to restitution is the right to court-ordered reimbursement from a convicted person for losses that the victim suffered as the result of their victimization.<sup>108</sup> Restitution serves a range of objectives, including punishment, deterrence, rehabilitation and compensation.<sup>109</sup>

With respect to the compensatory objective, restitution is designed to make victims financially "whole" in the aftermath of crime, compensating them for their losses to restore them to their pre-crime financial state.<sup>110</sup>

For additional information on the right to restitution see NCVLI's [\*Restitution Law & Practice Guide for Legal Practitioners\*](#).

The federal government and all states have laws governing restitution. Federal law and many state laws provide victims with an affirmative right to restitution within the jurisdiction's body of victims' rights laws.<sup>111</sup> Restitution rights and other restitution-related provisions can also be found in laws governing criminal judgments and/or sentencing,<sup>112</sup> as well as in laws and rules regarding probation, supervised release, and community/work release.<sup>113</sup> The particular rules governing restitution collection and distribution can be found in a jurisdiction's criminal procedure laws,<sup>114</sup> rules,<sup>115</sup> judicial administration rules,<sup>116</sup> administrative code,<sup>117</sup> and local court orders.<sup>118</sup> In the federal context, sentencing guidelines also contain restitution-specific provisions.<sup>119</sup> Throughout federal and state law there are crime-specific restitution laws, which may focus on a certain crime or set of related crimes,<sup>120</sup> such as human trafficking<sup>121</sup> or child abuse and exploitation.<sup>122</sup>

A jurisdiction's restitution laws can be mandatory, permissive or a combination of the two. Some level of mandatory restitution is afforded to victims under federal law,<sup>123</sup> as well as under the laws of many states.<sup>124</sup> The promise of mandatory restitution can broadly apply to all crimes in which victims suffer a loss<sup>125</sup> or be limited to certain crimes,<sup>126</sup> defendants,<sup>127</sup> victims<sup>128</sup>, and/or circumstances.<sup>129</sup> In some jurisdictions – including prosecutions for certain federal crimes<sup>130</sup> and in at least eight states<sup>131</sup> – courts have discretion regarding whether to order restitution.

Some jurisdictions require that victims receive full restitution for their losses,<sup>132</sup> while other jurisdictions authorize partial restitution.<sup>133</sup> In some jurisdictions, courts can only order partial restitution based upon certain considerations or circumstances, such as when full amount of the victims' losses exceed a particular dollar amount<sup>134</sup> or when the court concludes that full restitution would be unjust or otherwise inappropriate under the facts of the case.<sup>135</sup>

---

<sup>1</sup>In most jurisdictions, the legal definition of victim, for purposes of defining who is entitled to these rights, is broad and includes persons beyond those who are the "direct" victim of the crime. *See, e.g.*, 18 U.S.C. § 3771(e)(2) (defining "victim" for the purposes of the Crime Victims' Rights Act, to mean "a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia" and stating that, "[i]n the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal

---

guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative"); Ariz. Const. art. II, § 2.1(D) (defining "victim," for the purposes of the state's victims' rights amendment, as "a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused"); Fla. Const. art. I, § 16(e) (defining "victim," for the purposes of the state's victims' rights amendment, as "a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed" and "the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim"); 725 Ill. Comp. Stat. Ann. 120/3(a) (defining "victim" for the purposes of the state's statutory victims' rights provisions); Nev. Const. art. I, § 8A(7) (defining "victim," for the purposes of the state's victims' rights amendment to mean "any person directly and proximately harmed by the commission of a criminal offense under any law of this State" and providing that "[i]f the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person"). Determining whether a person is entitled to a right requires jurisdiction-specific analysis of both the right and the definition of "victim." See generally *Fundamentals of Victims' Rights: An Overview of the Legal Definition of Crime "Victim" in the United States*, NCVLI Victim Law Bulletin (2011), <https://law.lclark.edu/live/files/11824-fundamentals-of-victims-rights-an-overview-of-the> (describing the complexity of answering the question of who is entitled to assert crime victims' rights in any given case, recognizing how jurisdictions differ in their approach to the definition of the term "victim" and outlining the common factors to consider when addressing the issue).

<sup>2</sup> See, e.g., 18 U.S.C. § 3771(d)(1) ("The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in [18 U.S.C. § 3771(a)]."); Ariz. Rev. Stat. Ann. § 13-4437(A) ("The victim has standing to seek an order, to bring a special action or to file a notice of appearance in a trial court or an appellate proceeding, seeking to enforce any right or to challenge an order denying any right guaranteed to victims. . . . In asserting any right, the victim has the right to be represented by personal counsel at the victim's expense and the proceedings may be initiated by the victim's counsel or the prosecutor."); Fla. Const. art. I, § 16(c) ("The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of a victim's right shall be clearly stated on the record."); Ga. Const. art. I, § 1, ¶ XXX(b) (affording victims the right to assert their constitutional rights and recognizing that victims may be represented by counsel in proceedings related to the assertion of their rights); Ill. Const. art. I, § 8.1(b) ("The victim has standing to assert the rights enumerated in subsection (a) in any court exercising jurisdiction over the case. The court shall promptly rule on a victim's request."); 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(3) ("The victim has standing to assert the rights enumerated in subsection (a) of Article I, Section 8.1 of the Illinois Constitution and the statutory rights under Section 4 of this Act in any court exercising jurisdiction over the criminal case. The prosecuting attorney, a victim, or the victim's retained attorney may assert the victim's rights."); Ky. Const. § 26A ("The victim, the victim's attorney or other lawful representative, or the attorney for the Commonwealth upon request of the victim may seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court with jurisdiction over the case. The court shall act promptly on such a request and afford a remedy for the violation of any right."); N.J. Stat. Ann. § 52:4B-36(r) (affording victims the right "[t]o appear in any court before which a proceeding implicating the rights of the victim is being held, with standing to file a motion or present argument on a motion filed to enforce any right conferred herein or by Article I, paragraph 22 of the New Jersey Constitution, and to receive an adjudicative decision by the court on any such motion"); Nev. Const. art. I, § 8A(2) ("A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim's request"); N.D. Const. art. I, § 25(2) ("The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, ensuring that no right is

---

deprived without due process of law, and affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim’s right shall be clearly stated on the record.”); Ohio Const. art. I, § 10a(B) (“The victim, the attorney for the government upon request of the victim, or the victim’s other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim’s rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim’s lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.”); Okla. Const. art. II, § 34(B) (“The victim, the victim’s attorney or other lawful representative, or the attorney for the state upon request of the victim may assert in any trial or appellate court, or before any other authority with jurisdiction over the case, and have enforced the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request.”); S.D. Const. art. VI, § 29 (“The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government, upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right and ensuring that victims’ rights and interests are protected in a manner no less vigorous than the protections afforded to criminal defendants and children accused of delinquency. The reasons for any decision regarding the disposition of a victim’s right shall be clearly stated on the record.”); Tex. Const. art. I, § 30(d) (“The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.”); Tex. Const. art. I, § 30(e) (“ . . . A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.”); Wis. Const. art. I, § 9m(4)(a) (“In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim’s attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim’s right and shall provide those reasons to the victim or the victim’s attorney or other lawful representative.”).

<sup>3</sup> Party status is not – and has not historically been – a prerequisite to the ability to assert constitutional and/or statutory rights implicated in a criminal prosecution. *See, e.g., Richmond Newspapers v. Virginia*, 448 U.S. 555, 562–63 (1980) (recognizing that non-party newspaper may petition criminal court for protection of First Amendment rights); *United States v. McVeigh*, 106 F.3d 325, 334 n.7 (10th Cir. 1997) (explaining that non-party status is not a bar to mandamus review).

<sup>4</sup> *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

<sup>5</sup> *See, e.g., Tucker v. State*, 394 P.3d 54, 62, 69–70 (Idaho 2017) (internal citations omitted) (outlining traditional standing analysis in Idaho as including the requirements that the plaintiff show an injury in fact, a sufficient causal connection between the injury and the conduct complained of, and the likelihood that a favorable decision would redress the injury, but noting that Idaho courts may be “willing to ‘relax ordinary standing requirements in other cases where: (1) the matter concerns a significant and distinct constitutional violation, and (2) no party could otherwise have standing to bring a claim’”); *N.M. Right to Choose/NARAL v. Johnson*, 975 P.2d 841, 846–47 (N.M. 1998) (stating that to obtain standing for judicial review in New Mexico, litigants “generally must allege that they are directly injured as a result of the action they seek to challenge in court,” but noting that this requirement is met even when the extent of the injury is slight or the allegation is made by an organization on behalf of its members); *Fent v. Contingency Rev. Bd.*, 163 P.3d 512, 519–20 (Okla. 2007) (stating the threshold criteria for standing) (explaining that, in Oklahoma, “[t]he three threshold criteria of standing are (1) a legally protected interest which must have been injured in fact[,] *i.e.*, suffered an injury which is actual, concrete and not conjectural in nature, (2) a causal nexus between the injury and the complained-of conduct, and (3) a likelihood, as opposed to mere speculation, that the injury is capable of being redressed by a favorable court decision”).

<sup>6</sup> *See, e.g., 18 U.S.C. § 3771(d)(3)* (authorizing victims to petition for a writ of mandamus when a district court violates their rights); Md. Code Ann., Crim. Proc. § 11-103(b) (“Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may file an application for leave to appeal to the Court of Special Appeals from an interlocutory order or appeal to the Court of Special Appeals from a final order that denies or fails to consider a right secured to the victim by subsection (e)(4) of this section

---

[and other enumerated statutory provisions].”); Ohio Const. art. I, § 10a(B) (stating that if a victim asserts and seeks enforcement of their rights and their request for relief is denied, the victim or the victim’s lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.”); Or. Const. art. I, § 43(5)(a)–(b) (stating that “[e]very victim described in paragraph (a) of subsection (3) of this section shall have remedy by due course of law for violation of a right established in this section” and “[a] victim may assert a claim for a right established in this section in a pending case, by a mandamus proceeding if no case is pending or as otherwise provided by law”); Utah Code Ann. § 77-38-11(2)(a)(i) (authorizing victims to petition for a writ of mandamus defining or enforcing their rights); Wis. Const. art. I, § 9m(4)(b) (“Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under [Wis. Const. art. I, § 9m(4)(a)] by filing petitions for supervisory writ in the court of appeals and supreme court.”).

<sup>7</sup> See, e.g., *Melissa J. v. Superior Court*, 190 Cal. App. 3d 476, 478–79 (Cal. Ct. App. 1987) (stating that “where the court has issued an order concerning restitution, the victim may assert his or her legitimate rights by the procedures available to parties” and granting the victim’s petition for a writ of mandate/prohibition after the trial court granted defendant’s motion to terminate restitution to the victim in violation of the victim’s rights); *In re B.H.*, 946 N.W.2d 860, 871 (Minn. 2020) (recognizing that a sexual assault victim can challenge an order directing her to turn over her cell phone records to the defense on privacy grounds through a petition for a writ of prohibition).

<sup>8</sup> See, e.g., 18 U.S.C. § 3771(d)(3) (authorizing victims to petition for a writ of mandamus when a district court violates their rights); Utah Code Ann. § 77-38-11(2)(a)(i) (authorizing victims to petition for a writ of mandamus defining or enforcing their rights); *Crump v. Appellate Division of Superior Court*, 249 Cal. Rptr. 3d 611, 616 (Cal. Ct. App. 2019) (holding that victims may enforce their right to restitution in an appellate court by filing a writ of mandate).

<sup>9</sup> See, e.g., *In re B.H.*, 946 N.W.2d 860, 871 (Minn. 2020) (granting the sexual assault victim’s petition for a writ of prohibition requesting that the district court be prohibited from enforcing its order that she turn over her cell phone to the defense in violation of her privacy); *State ex rel. Suwalski v. Peeler*, 188 N.E.3d 1048, 1054–55 (Ohio 2021) (recognizing that the state’s victim’s rights amendment authorized a domestic violence victim to petition the court for a writ of prohibition to prevent a judge from relieving the victim’s ex-husband, who was convicted of domestic violence, from a federal firearms disability and granting the victim’s writ).

<sup>10</sup> See, e.g., *Ford v. State*, 829 So.2d 946, 948 (Fla. Dist. Ct. App. 2002) (approving the victim’s petition for a writ of certiorari for review of violation of the victim’s restitution rights).

<sup>11</sup> See, e.g., Wis. Const. art. I, § 9m(4)(b) (“Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under [Wis. Const. art. I, § 9m(4)(a)] by filing petitions for supervisory writ in the court of appeals and supreme court.”).

<sup>12</sup> See, e.g., N.D. Const. art. I, § 25(1) (providing that victims are entitled to the state’s constitutional victims’ rights provisions “beginning at the time of their victimization”); Wis. Const. art. I, § 9m(2) (providing that the state’s constitutional victims’ rights provisions “shall vest at the time of victimization”).

<sup>13</sup> See, e.g., *State v. Leonardo, ex rel. Cnty. of Pima*, 250 P.3d 1222, 1225 (Ariz. Ct. App. 2011) (holding that a victim’s rights remain enforceable while a defendant is on probation).

<sup>14</sup> See, e.g., Ariz. Rev. Stat. Ann. § 13-4402 (providing “the rights and duties that are established by [the Crime Victims’ Rights’] chapter arise on the arrest or formal charging of the person or persons who are alleged to be responsible for a criminal offense against a victim.”); Cal. Const. art. I, § 28(b)(15) (affording victims the right “[t]o be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender”); Or. Rev. Stat. Ann. § 147.433 (1)(c) (affording victims, upon request, “[t]he right to reasonable, accurate and timely notice from the counsel for the state when a conviction in the criminal proceeding is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680 or post-conviction DNA (deoxyribonucleic acid) testing under ORS 138.688 to 138.700”).

<sup>15</sup> See, e.g., 18 U.S.C. § 3771(a)(2) (affording victims “[t]he right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused”).

<sup>16</sup> See, e.g., *Id.*; N.M. Const. art. II, § 24(A)(4) (affording victims of enumerated crimes “the right to notification of court proceedings”); 725 Ill. Comp. Stat. Ann. 120/4.5(b) (mandating that the Office of the State’s Attorney provide victims with notice of the filing of an information, return of the indictment and other charging decisions, as well as, timely notice of court proceedings).

<sup>17</sup> See, e.g., Ga. Const. art. I, § 1, ¶ XXX(a)(1)–(2) (affording victims “[t]he right upon request to reasonable, accurate, and timely notice of any scheduled court proceedings involving the alleged act or changes to the scheduling of such proceedings” and “[t]he right upon request to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused”); Ky. Const. § 26A (affording victims “the reasonable right, upon request,

---

to timely notice of all proceedings . . .”); Ohio Const. art. I, § 10a(A)(2) (affording victims the right, “upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim”).

<sup>18</sup> See, e.g., Ala. Code § 15-23-63(a) (requiring victims submit a written request on a form provided by prosecuting attorney’s office to receive notice of “all charges filed against the defendant, criminal proceedings, except initial appearances, as soon as practicable, including any changes that may occur”); N.C. Gen. Stat. Ann. § 15A-832(b) (“[T]he victim shall, on a form provided by the district attorney’s office, indicate whether the victim wishes to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused”).

<sup>19</sup> See Iowa Code Ann. § 915.10–915.12 (detailing how victims may register for notice by filing a written request-for-registration form with the county attorney or registering with the automatic notification system by filing a request for registration through written, telephonic or electronic means).

<sup>20</sup> See e.g., *State ex rel. Hance v. Arizona Bd. of Pardons & Paroles*, 875 P.2d 824, 830 (Ariz. Ct. App. 1993) (finding the victim’s failure to request notice of parole hearing did not provide the state a defense against failing to notify the victim because the victim was never informed of her constitutional right to request notice and to participate in post-conviction release proceedings).

<sup>21</sup> See *United States v. Heaton*, 458 F. Supp. 2d 1271, 1272 (D. Utah 2006) (internal footnote omitted) (“To treat a person with ‘fairness’ is generally understood as treating them ‘justly’ and ‘equitably.’ A victim is not treated justly and equitably if her views are not even before the court.”).

<sup>22</sup> See 150 Cong. Rec. S10911 (daily ed. Oct. 9, 2004) (statement of Sen. Kyl) (observing that right to fair treatment under the Crime Victims’ Rights Act (CVRA), 18 U.S.C. § 3771, is a substantive right that it is intended to direct courts, among others, “to treat victims of crime with the respect they deserve and to afford them due process”); *United States v. Patkar*, No. Cr. 06-00450 JMS, 2008 WL 233062, \*5 (D. Haw. Jan. 28, 2008) (concluding that the right to be treated with fairness, dignity and respect under the CVRA reflects Congress’s determination “that failure to treat a victim with fairness and with respect to privacy works a clearly defined and serious injury to the victim”).

<sup>23</sup> The right to dignity is a broader right than the right to fairness; for more information on the right to dignity see Meg Garvin, *Victims and the Supreme Court’s Eighth Amendment Jurisprudence in Miller v. Alabama: A Tale of a Constitutive Paradox for Victims*, 39 New Eng. J. on Crim. & Civ. Confinement 303, 308-309 (2013) (discussing Supreme Court jurisprudence of the term and arguing that it should inform interpretation of victims’ positive right to dignity); Michael M. O’Hear, *Plea Bargaining and Victims: From Consultation to Guidelines*, 91 Marq. L. Rev. 323, 326, 331-32 (2007) (positing that victim participation in the plea process may further their dignity); Douglas E. Beloof, *Dignity, Equality, and Public Interest for Defendants and Crime Victims in Plea Bargains: A Response to Professor Michael O’Hear*, 91 Marq. L. Rev. 349, 349-50 (2007) (responding to Professor O’Hear’s discussion of dignity).

<sup>24</sup> See, e.g., 18 U.S.C. § 3771(a)(8) (affording victims “[t]he right to be treated with fairness and with respect for the victim’s dignity and privacy”); Alaska Const. art. I, § 24; Ariz. Const. art. II, § 2.1(A)(1); Cal. Const. art. I, § 28(b)(1); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(a); Conn. Const. art. I, § 8(b)(1); Fla. Const. art. I, § 16(b)(1); Ga. Const. art. I, § 1 ¶ XXX(a); Ga. Code Ann. § 17-17-1(9); Idaho Const. art. I, § 22(1); Ill. Const. art. I, § 8.1(a)(1); 725 Ill. Comp. Stat. Ann. 120/4(a)(1); Ind. Const. art. I, § 13(b); Ind. Code Ann. § 35-40-5-1(1); Kan. Stat. Ann. § 74-7333(a)(1); La. Const. Ann. art. I, § 25; Md. Const. Decl. of Rights art. 47(a); Mich. Const. art. I, § 24(1); Miss. Const. art. III, § 26A(1); Nev. Const. art. I, § 8A(1)(a); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(a); N.J. Const. art. I, ¶ 22; N.J. Rev. Stat. Ann. § 52:4B-36(a); N.M. Const. art. II, § 24(A)(1); N.M. Stat. Ann. § 31-26-4(A); N.D. Const. art. I, § 25(1)(a); Ohio Const. art. I, § 10a(A)(1); Okla. Const. art. II, § 34(A); 18 Pa. Cons. Stat. § 11.102(1); R.I. Const. art. I, § 23; S.C. Const. art. I, § 24(A)(1); S.D. Const. art. VI, § 29(1); Tenn. Code Ann. § 40-38-102(a)(1); Tex. Const. art. I, § 30(1); Utah Const. art. I, § 28(1)(a); Va. Const. art. I, § 8-A(2); Wis. Const. art. I, § 9m(2)(a); see also Or. Const. art. I, § 42(1) (affording rights to victims to accord them due dignity and respect); Wash. Const. art. I, § 35 (same); Cal. Penal Code § 679 (declaring the legislature’s intent when enacting the state’s victims’ rights laws to ensure that victims are “treated with dignity, respect, courtesy, and sensitivity”); Haw. Rev. Stat. § 801D-1 (same); Vt. Stat. Ann. tit. 13, § 5303(a) (stating that the legislative purpose underlying the state’s victims’ rights laws is to ensure that victims are treated with dignity and respect).

<sup>25</sup> See, e.g., 18 U.S.C. § 3771(a)(8); Alaska Const. art. I, § 24; Ariz. Const. art. II, § 2.1(A)(1); Cal. Const. art. I, § 28(b)(1); Fla. Const. art. I, § 16(b)(1); Idaho Const. art. I, § 22(1); Ill. Const. art. I, § 8.1(a)(1); 725 Ill. Comp. Stat. Ann. 120/4(a)(1); Ind. Const. art. I, § 13(b); Ind. Code Ann. § 35-40-5-1(1); La. Const. Ann. art. I; Mich. Const. art. I, § 24(1); Miss. Const. art. III, § 26A(1); Nev. Const. art. I, § 8A(1)(a); N.M. Const. art. II, § 24(A)(1); N.D. Const. art. I, § 25(1)(a); S.C. Const. art. I, § 24(1); S.D. Const. art. VI, § 29(1); Tex. Const. art. I, § 30(1); Utah Const. art. I, § 28(1)(a); Va. Const. art. I, § 8-A(2).

---

<sup>26</sup> See, e.g., Ky. Const. § 26A; N.H. Rev. Stat. Ann. § 21-M:8-k(II)(a); Ohio Const. art. I, § 10a(A)(1); Okla. Const. art. II, § 34(A).

<sup>27</sup> *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972) (internal citations omitted).

<sup>28</sup> See generally Douglas E. Beloof, *Weighing Crime Victims' Interests in Judicially Crafted Criminal Procedure*, 56 Cath. U. L. Rev. 1135, 1154–58 (2007) (detailing how judicially crafted procedures afford victims their right to fair treatment by ensuring trial court consideration of individual victims' interests).

<sup>29</sup> See, e.g., *Heaton*, 458 F. Supp. 2d at 1272 (finding that the right to be treated with fairness and dignity applies to a court's decision whether to grant the government's motion to dismiss and holding that "in passing on any government motion under Rule 48(a) [regarding dismissal] in any victim-related case, the court will expect to see the prosecutor recount that the victim has been consulted on the dismissal and what the victim's views were on the matter").

<sup>30</sup> See, e.g., *E.H. v. Slayton in & for Cnty. of Coconino*, 468 P.3d 1209, 1217 (Ariz. 2020) ("[A] victim's counsel should presumptively be permitted to sit before the bar when a victim's constitutional or statutory rights are directly at issue in a court proceeding. . . . This presumption may be overcome by physical limitations within the courtroom, or, for instance, to allow for physical distancing during a pandemic, or for other concerns about seating arrangements affecting the conduct of a fair hearing. At all times, however, a trial court's discretion to address seating arrangements must honor a victim's constitutional right to be present and heard at criminal proceedings and to be treated with fairness, dignity, and respect.").

<sup>31</sup> See, e.g., *State v. Smith*, No. 2019 KW 0892, 2019 WL 3064919, at \*1 (La. Ct. App. July 11, 2019) (finding that "the incarcerated victim should be afforded the same rights as the defendant and be permitted to wear civilian clothes and no visible restraints during the trial" based on, *inter alia*, the victim's constitutional right to be treated with fairness, dignity and respect).

<sup>32</sup> See, e.g., *State v. Korsen*, 111 P.3d 130, 135 (Idaho 2005) (concluding that abatement of a defendant's conviction upon their death denies victims their right to fairness, respect and dignity "by preventing the finality and closure they are designed to provide"); *Payton v. State*, 266 So. 3d 630, 640–41 (Miss. 2019) (overruling precedent and abandoning the abatement *ab initio* doctrine upon finding, *inter alia*, that the doctrine "tramples upon victims' rights by denying victims 'fairness, respect and dignity'"); *State v. Benn*, 274 P.3d 47, 49–50 (Mont. 2012) (holding that "abatement of the proceeding *ab initio* is an inappropriate resolution of a case when the defendant has died" because, *inter alia*, abating a conviction when a defendant dies during the pendency of an appeal undermines the finality that restitution laws are designed to provide, thereby denying victims their rights to fair and dignified treatment).

<sup>33</sup> See, e.g., N.D. Const. art. I, § 25(1)(f) (affording victims "[t]he right to privacy, which includes the right to refuse an interview, deposition, or other discovery request made by the defendant, the defendant's attorney, or any person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents"); S.D. Const. art. VI, § 29(6) (affording victims "[t]he right, upon request, to privacy, which includes the right to refuse an interview, deposition or other discovery request, and to set reasonable conditions on the conduct of any such interaction to which the victim consents"); Wis. Const. art. I, § 9m(2)(b) (affording victims the right "[t]o privacy"); see also Va. Code Ann. § 19.2-11.01(A) (stating that one of the primary purposes of the state's victims' rights laws is to ensure that victims' "privacy is protected to the extent permissible under law").

<sup>34</sup> See, e.g., Cal. Const. art. I, § 28(b)(1) (affording victims the right "[t]o be treated with fairness and respect for [the victim's] privacy and dignity . . . throughout the criminal or juvenile justice process"); Idaho Const. art. I, § 22(1) (affording victims the right "[t]o be treated with fairness, respect, dignity and privacy throughout the criminal justice process"); Ill. Const. art. I, § 8.1(a)(1) (affording victims "[t]he right to be treated with fairness and respect for their dignity and privacy . . . throughout the criminal justice process"); Ky. Const. § 26A (affording victims "the right to fairness and due consideration of the crime victim's safety, dignity, and privacy"); Mich. Const. art. I, § 24(1) (affording victims "[t]he right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process"); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(a) (affording victims "[t]he right to be treated with fairness and respect for the victim's safety, dignity, and privacy throughout the criminal justice process"); N.M. Stat. Ann. § 31-26-4(A) (affording victims the right to "be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process"); Nev. Const. art. I, § 8A(1)(a) (affording victims the right "[t]o be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process"); N.M. Const. art. II, § 24(A)(1) (affording victims of enumerated crimes "the right to be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process"); Ohio Const. art. I, § 10a(A)(1) (affording victims the right "to be treated with fairness and respect for the victim's safety, dignity and privacy"); Okla. Const. art. II, § 34(A) (affording victims the right "to be treated with fairness and respect for the victim's safety, dignity and privacy"); Tex. Const. art. I, § 30(1)

---

(affording victims “the right to be treated with fairness and with respect for the victim’s dignity and privacy throughout the criminal justice process”); Okla. Stat. Ann. tit. 21, § 142A-2(A)(2) (affording victims the right to “be treated with fairness and respect for the safety, dignity and privacy of the victim”).

<sup>35</sup> See, e.g., Ariz. Const. art. II, § 8 (“No person shall be disturbed in his private affairs, or his home invaded, without authority of law.”); Cal. Const. art. I, § 1 (“All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”); Fla. Const. art. I, § 23 (“Every natural person has the right to be let alone and free from governmental intrusion into the person’s private life except as otherwise provided herein...”); Ill. Const. art. I, § 6 (“The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means...”); La. Const. Ann. art. I, § 5 (“Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy.”); Mont. Const. art. II, § 10 (“The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.”).

<sup>36</sup> See U.S. Const. amend. IV (“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”).

<sup>37</sup> See *Whalen v. Roe*, 429 U.S. 589, 598–600 (1977) (recognizing a federal constitutional right to informational privacy that includes the individual interest in avoiding disclosure of personal matters); see also *Florida Star v. B.J.F.*, 491 U.S. 524, 536 (1989) (finding that “it is undeniable” that protecting privacy of victims of sexual offenses is a “highly significant” state interest and that such an interest, under certain circumstances, may warrant imposition of civil sanctions for publication of rape victim’s name); *Eastwood v. Dep’t of Corrections*, 846 F.2d 627, 630–31 (10th Cir. 1988) (stating that the right to informational privacy is implicated when an individual is forced to disclose information regarding personal sexual matters).

<sup>38</sup> See, e.g., Fed. R. Evid. 412; Ind. Code Ann. § 35-37-4-4; Kan. Stat. Ann. § 21-5502; N.C. Gen. Stat. Ann. 8C-1, 412.

<sup>39</sup> Evidentiary privileges protect from disclosure communications between crime victims and certain professionals, such as victim advocates, see, e.g., Alaska Code Ann. § 24.65.200 (victim advocate-victim privilege); Ariz. Rev. Stat. § 13-4430 (victim advocate-victim privilege); Ark. Code Ann. § 9-6-112 (b)(1),(2) (domestic violence victim advocate-victim privilege); Tex. Gov’t Code Ann. § 420.071(c) (sexual assault victim advocate-victim privilege); Utah R. Evid. 512(b) (victim advocate-victim privilege); doctors, see, e.g., Kan. Stat. Ann. § 60-427 (physician-patient privilege), 735 Ill. Comp. Stat. Ann. 5/8-802 (physician-patient privilege); counselors, see, e.g., 735 Ill. Comp. Stat. Ann. 5/8-802.1 (rape crisis counselor-victim privilege); 735 Ill. Comp. Stat. Ann. 5/8-802.2 (counselor-victim privilege); 750 Ill. Comp. Stat. Ann. 60/227 (domestic violence counselor-victim privilege); psychologists, see, e.g., Ga. Code Ann. § 43-39-16 (licensed psychologist-client privilege); and social workers, see, e.g., Fla. Stat. Ann. § 491.0147 (clinical social worker-client privilege); Ill. Comp. Stat. Ann. § 20/16 (licensed social worker-client and licensed clinical social worker-client privilege); Kan. Stat. Ann. § 65-6315 (social worker-client privilege).

<sup>40</sup> See, e.g., 18 U.S.C. § 3509(d)(3)(A) (authorizing, in cases involving child-victims, any person to move the court to issue a protective order barring public disclosure of the victim’s name and other identifying information where there is a significant possibility that such disclosure would be detrimental to the child); Ariz. R. Crim. P. 39(11) (affording victims the right to require the prosecutor to withhold, during discovery and other proceedings, the victim’s identifying and locating information, except if the court determines disclosure is necessary to protect the defendant’s constitutional rights); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(v) (affording victims “[t]he right to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information of the victim unless the victim consents or the court orders disclosure upon a finding that a reasonable and articulable need for the information exists” and stating that “[a]ny proceeding conducted by the court concerning whether to order disclosure shall be in camera”); Me. Rev. Stat. tit. 17-A, § 2108(1) (“Records that pertain to a victim’s current address or location or that contain information from which a victim’s current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section.”); Minn. Stat. Ann. § 611A.035, subd. 2 (“No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address, telephone number, or the date of birth of the victim or witness on the record in open court unless the court finds that the testimony would be relevant evidence.”); Miss. Code Ann. § 99-43-25 (“Based upon the reasonable apprehension of the victim of acts or threats of physical violence or intimidation by the defendant, the family of the defendant, or by

---

anyone at the direction of the defendant, against the victim or the immediate family of the victim, the prosecutor may petition the court to direct that the victim or any other witness not be compelled to testify during pre-trial proceedings or in any trial, facts that could divulge the identity, residence, or place of employment of the victim, or other related information, without consent of the victim unless necessary to the prosecution of the criminal proceeding. If the court schedules a hearing on the merits of the petition, it shall be held in camera. (2) The address, phone number, place of employment, and other related information about the victim contained in the prosecuting attorney's file shall not be public record.”); Nev. Rev. Stat. Ann. § 178.5691 (“All personal information, including, but not limited to, a current or former address, which pertains to a victim, relative, witness or other person and which is received pursuant to the provisions of NRS 178.569 to 178.5698, inclusive, is confidential.”); N.C. Gen. Stat. Ann. § 15A-825(a)(2a) (“To the extent reasonably possible and subject to available resources, the employees of law enforcement agencies, the prosecutorial system, the judicial system, and the correctional system should make a reasonable effort to assure that each victim and witness within their jurisdiction: . . . [i]s provided information that testimony as to one's home address is not relevant in every case, and that the victim or witness may request the district attorney to object to that line of questioning when appropriate.”); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(m) (affording victims “[t]he right of confidentiality of the victim’s address, place of employment, and other personal information”); N.J. Stat. Ann. § 2A:82-46 (prohibiting the disclosure of the identities of victims under the age of 18 and addressing procedures for how to refer to victims in court filings and proceedings without disclosing their identities); Nev. Const. art. I, § 8A(1)(d) (affording victims the right “[t]o prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim’s family”); N.D. Const. art. I, § 25(1)(e) (affording victims “[t]he right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records”); 42 Pa. Stat. and Cons. Stat. Ann. § 62A11(a) (limiting the disclosure of the address of a victim of sexual violence or intimidation); S.D. Const. art. VI, § 29(6) (affording victims “[t]he right, upon request, to prevent the disclosure to the public, or the defendant or anyone acting on behalf of the defendant in the criminal case, of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records”); *see also* Ga. Code Ann. § 17-17-10 (“As a condition of permitting a response to an inquiry as to the victim’s current address, telephone number, or place of employment, the court may require counsel or any other officer of the court, including but not limited to counsel for the defendant, not to transmit or permit transmission to the defendant of the victim’s current address, telephone number, or place of employment by the counsel or officer of the court or any employee, agent, or other representative of the counsel or officer of the court.”). *See also, e.g.,* Kan. Stat. Ann. § 22-3212(a)(5) (authorizing the prosecutor to redact certain victim information from materials subject to pretrial disclosure); Me. Rev. Stat. tit. 17-A, § 2108(4) (“An attorney for the State may withhold the current address or location of a victim from the defendant, or the attorney or authorized agent of the defendant, if the attorney for the State has a good faith belief that such disclosure may compromise the safety of the victim.”); Va. Sup. Ct. R. 3A:11(c) (providing procedure for redacting victims’ personal identifying information from materials or evidence that is subject to the state’s discovery obligations).

<sup>41</sup> *See, e.g.,* Kan. Stat. Ann. § 75-451 (authorizing victims of domestic violence, sexual assault, human trafficking or stalking to participate in address confidentiality program); Va. Code Ann. § 2.2-515.2 (same).

<sup>42</sup> *See, e.g.,* Ala. Code § 15-23-70 (“The victim has the right to refuse a request by the defendant, the attorney of the defendant, or by any other person acting on behalf of the defendant, for an interview or other communication with the victim.”); Ariz. Const. art. II, § 2.1(A)(5) (affording victims the right “[t]o refuse an interview, deposition, or other discovery request by the defendant, the defendant’s attorney, or other person acting on behalf of the defendant”); Ga. Code Ann. § 17-17-8.1(a) (affording victims the right to refuse to submit to an interview by the accused); La. Const. art. I, § 25 (“As defined by law, a victim of crime shall have . . . the right to refuse to be interviewed by the accused or a representative of the accused); Nev. Const. art. I, § 8A(1)(e) (affording victims the right “[t]o refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents”); N.D. Const. art. I, § 25(1)(f) (affording victims “[t]he right to privacy, which includes the right to refuse an interview, deposition, or other discovery request made by the defendant, the defendant’s attorney, or any person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents”); Ohio Const. art. I, § 10a(A)(6) (affording victims “except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused”); Okla. Const. art. II, § 34(A) (affording victims the right “to refuse an interview or other request made by the accused or any person acting on behalf of the accused, other than a refusal to appear if subpoenaed by defense counsel”); Or. Const. art. I,

---

§ 42(1)(c) (affording victims “[t]he right to refuse an interview, deposition or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant provided, however, that nothing in this paragraph shall restrict any other constitutional right of the defendant to discovery against the state”); S.D. Const. art. VI, § 29(6) (affording victims “[t]he right, upon request, to privacy, which includes the right to refuse an interview, deposition or other discovery request, and to set reasonable conditions on the conduct of any such interaction to which the victim consents”); Tenn. Code Ann. § 40-38-117 (affording victims the right to refuse a request by defendant for an interview or other communication); Wis. Const. art. I, § 9m(L) (affording victims the right “[t]o refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused”).

<sup>43</sup> See, e.g., 740 Ill. Comp. Stat. Ann. 45/4.2 (exempting from victim records related to an application for crime victim compensation from disclosure in response to a public records request); Va. Code Ann. Stat. § 2.2-3705.2(1) (excluding from mandatory disclosure requirement under the state’s public records law, public safety records that include “confidential information,” such as “victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses”).

<sup>44</sup> See 150 Cong. Rec. S10911 (daily ed. Oct. 9, 2004) (statement of Sen. Kyl) (noting that the notice provisions of the CVRA “are important because if a victim fails to receive notice of a public proceeding the criminal case at which the victim’s right could otherwise have been exercised the right has effectively been denied” and that “a failure to provide notice of proceedings at which a right can be asserted is equivalent to a violation of the right itself”).

<sup>45</sup> See, e.g., 18 U.S.C. § 3771(a)(2) (affording victims “[t]he right to reasonable, accurate, and timely notice of any public court proceeding”); La. Const. Ann. art. I, § 25 (“As defined by law, a victim of crime shall have the right to reasonable notice [of] . . . all critical stages of preconviction and postconviction proceedings”); N.M. Const. art. II, § 24(A)(4) (affording victims of enumerated crimes “the right to notification of court proceedings”); Tex. Const. art. I, § 30(b)(1) (affording victims “the right to notification of court proceedings”).

<sup>46</sup> See, e.g., 18 U.S.C. § 3771(a)(2) (affording victims “[t]he right to reasonable, accurate, and timely notice of . . . any parole proceeding, involving the crime or of any release or escape of the accused”); Alaska Const. art. I, § 24 (affording victims “the right to be informed, upon request, of the accused’s escape or release from custody before or after conviction or juvenile adjudication”); S.C. Const. art. I, § 24(A)(2) (affording victims the right “[t]o be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped”).

<sup>47</sup> See *United States v. Rubin*, 558 F. Supp. 2d 411, 425 (E.D.N.Y. 2008) (recognizing that the right to confer with the prosecution, under the Crime Victims’ Rights Act (CVRA), 18 U.S.C. § 3771(a)(5), includes the right to gather information from the government that is necessary to pursue restitution in a case); *Confer*, Encyclopedia Britannica, [www.Britannica.com/dictionary/confer](http://www.Britannica.com/dictionary/confer) (defining “confer” to mean “to discuss something important in order to make a decision”); *Confer*, Collins Dictionary, <https://www.collinsdictionary.com/dictionary/english/confer> (defining “confer” mean “to consult together; compare opinions; carry on a discussion or deliberation”).

<sup>48</sup> See, e.g., Alaska Const. art. I, § 24 (affording victims “the right to confer with the prosecution”); Ariz. Const. art. II, § 2.1(A)(6) (affording victims the right “[t]o confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition”); Cal. Const. art. I, § 28(b)(6) (affording victims the right “to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant”); Conn. Const. art. I, § 8(b)(6) (affording victims “the right to communicate with the prosecution”); Fla. Const. art. I, § 16(b)(6)c (affording victims “[t]he right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case”); Idaho Const. art. I, § 22(5) (affording victims the right “[t]o communicate with the prosecution”); Ill. Const. art. I, § 8.1(a)(4) (affording victims “[t]he right to communicate with the prosecution”); Ind. Const. art. I, § 13(b) (affording victims the right “to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused”); Ind. Code Ann. § 35-40-5-3(b) (affording victims “the right to confer with a representative of the prosecuting attorney’s office: (1) after a crime allegedly committed against the victim has been charged; (2) before the trial of a crime allegedly committed against the victim; and (3) before any disposition of a criminal case involving the victim.”); Ky. Const. § 26A (affording victims “the right to consult with the attorney for the Commonwealth or the attorney’s designee”); La. Const. Ann. art. I, § 25 (“As defined by law, a victim of crime shall have . . . the right to confer with the prosecution prior to final disposition of the case”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to confer with the prosecution”); Mo. Ann. Stat. § 595.209(1)(4) (affording victims “the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552 or its successors, hearings, sentencing and probation revocation”); Nev. Const. art. I, § 8A(1)(f) (affording victims the right “[t]o reasonably confer with the

---

prosecuting agency, upon request, regarding the case”); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(f) (affording victims “[t]he right to confer with the prosecution and to be consulted about the disposition of the case, including plea bargaining”); N.J. Stat. Ann. § 52:4B-36 (affording victims the right “to confer with the prosecutor’s representative so that the victim may be kept adequately informed”); N.M. Const. art. II, § 24(A)(6) (affording victims of enumerated crimes “the right to confer with the prosecution”); N.C. Const. art. I, § 37(1)(h) (affording victims the right “to reasonably confer with the prosecution”); N.D. Const. art. I, § 25(1)(j) (affording victims “[t]he right, upon request, to confer with the attorney for the government”); Ohio Const. art. I, § 10a(A)(9) (affording victims the right “upon request, to confer with the attorney for the government”); Okla. Const. art. II, § 34(A) (affording victims the right “upon request, to confer with the attorney for the state; and to be informed of all rights enumerated in this section”); S.C. Const. art. I, § 24(A)(7) (affording victims the right to “confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition”); S.D. Const. art. VI, § 29(10) (affording victims “[t]he right, upon request, to confer with the attorney for the government”); Tenn. Const. art. I, § 35(1) (affording victims “[t]he right to confer with the prosecution”); Tex. Const. art. I, § 30(b)(3) (affording victims, upon request, “the right to confer with a representative of the prosecutor’s office”); Va. Const. art. I, § 8-A(7) (affording victims “[t]he right to confer with the prosecution”).

<sup>49</sup> See 18 U.S.C. § 3771(a)(5).

<sup>50</sup> See, e.g., Ala. Code § 15-23-64 (“The prosecuting attorney shall confer with the victim prior to the final disposition of a criminal offense, including the views of the victim about a nol pros, reduction of charge, sentence recommendation, and pre-trial diversion programs.”); Ark. Code Ann. § 16-21-106(b)(1) (“Prosecuting attorneys shall confer with the victim before amending or dismissing a charge or agreeing to a negotiated plea or pretrial diversion”); Del. Code Ann. tit. 11, § 9405 (“Consistent with the duty to represent the interests of the public as a whole, the prosecutor shall confer with a victim before amending or dismissing a charge or agreeing to a negotiated plea or pretrial diversion.”); Ga. Code Ann. § 17-17-11(1) (requiring that prosecutors offer victims an opportunity to express their opinion on the disposition of an accused’s case, including the views of the victim regarding plea or sentence negotiations participation in pretrial or post-conviction diversion programs); Haw. Rev. Stat. § 801D-4(a)(1) (“[T]he victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney[.]”); Ky. Rev. Stat. Ann. § 421.500(6) (“The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case, including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.”); Mich. Stat. Ann. § 780.756(3) (“Before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim’s views about the disposition of the prosecution for the crime, including the victim’s views about dismissal, plea or sentence negotiations, and pretrial diversion programs.”); Miss. Code Ann. § 99-43-11 (“The prosecuting attorney shall confer with the victim prior to the final disposition of a criminal offense, including the views of the victim about a nol pros, reduction of charge, sentence recommendation, and pre-trial diversion programs.”); Mont. Code Ann. § 46-24-104 (“As soon as possible prior to disposition of the case, the prosecuting attorney in a criminal case shall consult with the victim of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim or, in the case of a minor child victim or homicide victim, with the family of the victim in order to obtain the views of the victim or the victim’s family regarding the disposition of the case, including: (1) dismissal of the case; (2) release of the accused pending judicial proceedings; (3) plea negotiations; and (4) pretrial diversion of the case from the judicial process.”); Neb. Rev. Stat. § 29-120; (“Prior to reaching a plea agreement with defense counsel, a prosecuting attorney, prosecuting a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197, shall consult with or make a good faith effort to consult with the victim regarding the content of and reasons for such plea agreement.”); N.Y. Exec. Law § 642(1) (affording victims of certain felonies the right to “be consulted by the district attorney in order to obtain the views of the victim regarding disposition of the criminal case by dismissal, plea of guilty or trial”); N.C. Gen. Stat. § 15A-832(f) (“The district attorney’s office shall offer the victim the opportunity to reasonably confer with an attorney from the district attorney’s office to obtain the views of the victim about, at a minimum, dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.”); Ohio Rev. Code Ann. § 2930.06(A) (“The prosecutor in a case, to the extent practicable, shall confer with the victim in the case before pretrial diversion is granted to the defendant or alleged juvenile offender in the case, before amending or dismissing an indictment, information, or complaint against that defendant or alleged juvenile offender, before agreeing to a negotiated plea for that defendant or alleged juvenile offender, before a trial of that defendant by judge or jury, or before the juvenile court conducts an adjudicatory hearing for that alleged juvenile offender.”); Tenn. Code Ann. § 40-38-114(a) (requiring that the prosecuting attorney “confer with the victim prior to the final disposition of a criminal offense, including the views of the victim regarding a decision not to proceed with a criminal prosecution

---

or a decision to dismiss a charge or to enter into plea or sentencing agreements or the victim's views regarding a decision to enter a pretrial or other type of diversion program"); Vt. Stat. Ann. tit. 13, § 5321(e) ("At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing."); W. Va. Code § 61-11A-6(a)(5) ("The victim of a serious crime, or in the case of a minor child or a homicide the family of the victim, shall be consulted by the prosecuting attorney in order to obtain the views of the victim or family about the disposition of any criminal case brought as a result of such crime, including the views of the victim or family about: (A) [d]ismissal; (B) [r]elease of the accused pending judicial proceedings; (C) [p]lea negotiations; and (D) [p]retrial diversion program."); Wis. Stat. Ann. § 971.095(2) ("In any case in which a defendant has been charged with a crime, the district attorney shall, as soon as practicable, offer all of the victims in the case who have requested the opportunity an opportunity to confer with the district attorney concerning the prosecution of the case and the possible outcomes of the prosecution, including potential plea agreements and sentencing recommendations."); *see also* Miss. Code Ann. § 99-43-27 (stating that "[t]he court shall not accept a plea agreement unless," *inter alia*, "[t]he prosecuting attorney advises the court that, before requesting the negotiated plea, reasonable efforts were made to confer with the victim").

<sup>51</sup> *See, e.g., United States v. Stevens*, 239 F. Supp. 3d 417, 424 (D. Conn. 2017) ("The Government's pre-plea consultation with a victim's family should include advising the family of a possible restitution claim, to ascertain whether the family wishes the Government to pursue such restitution at sentencing, and to make clear to a defendant at the time of a plea agreement what the possible and likely scope of restitution may be.").

<sup>52</sup> *See, e.g., In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008) (holding that the government's failure to confer with victims of a refinery explosion prior to entering plea with defendant violated the victims' right to confer); *see also State v. Means*, 926 A.2d 328, 335 (N.J. 2007) (explaining that where a victim's right to be notified about and comment on a proposed plea are violated, the sentencing court should postpone sentencing to allow the prosecutor to notify the victims of the terms of the plea agreement, receive and evaluate the victim's comments, and inform the victim of the right to be heard at sentencing).

<sup>53</sup> *See generally* Douglas E. Beloof & Paul G. Cassell, *The Crime Victim's Right to Attend the Trial: The Reascendant National Consensus*, 9 Lewis & Clark L. Rev. 481, 504–13 (2005) (discussing the variations among states and federal laws governing victims' right to be present at trial).

<sup>54</sup> *See* 18 U.S.C. § 3771(a)(3) (affording victims "[t]he right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding").

<sup>55</sup> *See, e.g.,* Alaska Const. art. I, § 24 (affording victims "the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present"); Ariz. Const. art. II, § 2.1(A)(3) (affording victims the right "[t]o be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present"); Cal. Const. art. I, § 28(b)(7) (affording victims the right to be present at all public proceedings, including delinquency proceedings . . . at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings"); Colo. Const. art. II, § 16a ("Any person who is a victim of a criminal act, or such person's designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be . . . present at all critical stages of the criminal justice process."); Fla. Const. art. I, § 16(b)(6)(a); Idaho Const. art. I, § 22(4) (affording victim the right "[t]o be present at all criminal justice proceedings"); Ky. Const. § 26A (affording victims "the right to be present at the trial and all other proceedings, other than grand jury proceedings, on the same basis as the accused"); La. Const. Ann. art. I, § 25 ("As defined by law, a victim of crime shall have the right . . . to be present . . . during all critical stages of preconviction and postconviction proceedings."); Mich. Const. art. I, § 24(1) (affording victims "[t]he right to attend trial and all other court proceedings the accused has the right to attend"); Miss. Code Ann. § 99-43-21 ("The victim has the right to be present throughout all criminal proceedings as defined in Section 99-43-3."); *id.* § 99-43-37 ("It is the discretion of the victim to exercise the right to be present and heard, where authorized by law, at a court proceeding. The absence of the victim at the proceeding of the court does not preclude the court from going forward with the proceeding."); Neb. Const. art. I, § 28(1) (affording victims the right to "be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings," but limiting the right to be present at trial where "the trial court finds sequestration necessary for a fair trial for the defendant"); Nev. Const. art. I, § 8A(1)(g) (affording victims the right to be present at all "public proceedings, including delinquency proceedings . . . at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings"); N.M. Const. art. II, § 24(A)(5) (affording victims of

---

enumerated crimes “the right to attend all public court proceedings the accused has the right to attend”); N.C. Const. art. I, § 37(1a)(a1) (affording victims “[t]he right upon request to be present at court proceedings of the accused”); N.D. Const. art. I, § 25(1)(g) (affording victims “[t]he right to reasonable, accurate, and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication, and disposition, and any proceeding during which a right of the victim is implicated”); Ohio Const. art. I, § 10a(A)(2) (affording victims “upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings”); Okla. Const. art. II, § 34(A) (affording victims the right “to reasonable and timely notice of and to be present at all proceedings involving the criminal or delinquent conduct”); Or. Const. art. I, § 42(1)(a) (affording victims “[t] right to be present at . . . any critical stage of the proceedings held in open court when the defendant will be present”); S.C. Const. art. I, § 24(A)(3) (affording victims the rights to “be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present” and “[to] be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision”); S.D. Const. art. VI, § 29(7) (affording victims “[t]he right, upon request, to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication and disposition, and any proceeding during which a right of the victim is implicated”); Tenn. Const. art. I, § 35(3) (affording victims “[t]he right to be present at all proceedings where the defendant has the right to be present”); Utah Const. art. I, § 28(1)(b) (affording victims the right, “[u]pon request, to be informed of, be present at, and to be heard at important criminal justice hearings related to the victim, either in person or through a lawful representative, once a criminal information or indictment charging a crime has been publicly filed in court”); Wis. Const. art. I, § 9m(2)(e) (affording victims the right “[u]pon request, to attend all proceedings involving the case”).

<sup>56</sup> See, e.g., Ala. Const. art. I, § 6.01(a) (“Crime victims, as defined by law or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when authorized, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the person accused of committing the crime.”); Ark. Code Stat. § 16-90-1103(a) (“The victim or a representative of the victim may be present whenever the defendant has a right to be present during a court proceeding concerning the crime charged, other than a grand jury proceeding, unless the court determines that exclusion of the victim or the victim’s representative is necessary to protect the defendant’s right to a fair trial or the confidentiality or fairness of a juvenile proceeding.”); Ga. Code Ann. § 17-17-9(a) (“A victim . . . shall not be excluded . . . unless it is established that such victim . . . is a material and necessary witness to such hearing, trial, or proceeding and the court finds that there is a substantial probability that such person’s presence would impair the conduct of a fair trial.”); Ind. Const. art. I, § 13(b) (affording victims the right “to be . . . present during public hearings . . . , to the extent that exercising these rights does not infringe upon the constitutional rights of the accused”); Kan. Const. art. XI, § 15(a) (affording victims the right “to be present at public hearings, as defined by law, of the criminal justice process . . . to the extent that [this right does] not interfere with the constitutional or statutory rights of the accused”); Neb. Const. art. I, § 28(1) (affording victims “the right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant”); N.H. Rev. Stat. § 21-M:8-k(II)(e), (p) (affording victims right to attend trial and all other court proceedings to the extent this right can be guaranteed by the court and is “not inconsistent with the constitutional or statutory rights of the accused”); Va. Code Ann. § 19.2-11.01(4)(b) (affording victims the right to be in the courtroom for trial, subject to the limitations of Va. Code Ann. 19.2-265.01, which allows for exclusion if “the court determines, in its discretion, the presence of the victim would impair the conduct of a fair trial”).

<sup>57</sup> See, e.g., Ill. Const. art. I, § 8.1(a)(10) (affording victims “[t]he right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim’s testimony would be materially affected if the victim hears other testimony at the trial”); Mass. Gen. Laws Ann. ch. 258B, § 3(b) (affording victims and their family members the right “to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person’s testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony”); Tex. Const. art. I, § 30(b)(2) (affording victims “the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim’s testimony would be materially affected if the victim hears other testimony at the trial”).

<sup>58</sup> The federal CVRA affords victims “[t]he right not to be excluded from any [ ] public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.” 18 U.S.C. § 3771(a)(3). The statute also provides

---

that before making this decision, “the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.” *Id.* § 3771(b)(1). The statute’s language regarding victim exclusion thus places a heavy burden on the party opposing the victim’s presence. *See In re Mikhel*, 453 F.3d 1137, 1139 (9th Cir. 2006) (emphasis in original) (internal footnote omitted) (“A mere *possibility* that a victim-witness may alter his or her testimony as a result of hearing others testify is therefore insufficient to justify excluding him or her from trial. Rather, a district court must find by clear and convincing evidence that it is *highly likely*, not merely *possible*, that the victim-witness will alter his or her testimony.”).

<sup>59</sup> *See, e.g.*, Del. Code Ann. tit. 11 § 9407(a) (affording victims the right to “be present whenever a defendant has a right to be present during a court proceeding concerning the crime charged other than a grand jury proceeding, unless good cause can be shown by the defendant to exclude the victim.”); N.J. Const. art. I, ¶ 22 (“A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey.”); Wash. Const. art. I, § 35 (affording victims the right, “subject to the discretion of the individual presiding over the trial or court proceedings, [to] attend trial and all other court proceedings the defendant has the right to attend”); Wash. Rev. Code § 7.69.030(11) (affording victims the right “to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified”); Wyo. Stat. Ann. § 1-40-203(b)(ix) (affording victims the right to “attend and participate in criminal justice system proceedings as provided in [Wyo. Stat. Ann. § 1-40-206],” which recognizes that victims have a right to be present at trial proceedings unless the court “for good cause shown” finds to the contrary); *State v. Popovich*, 964 A.2d 804, 806 (N.J. Super. Ct. App. Div. 2009) (“Whether to order sequestration generally rests within the sound discretion of the trial court.”).

<sup>60</sup> *See, e.g.*, Md. Const. Decl. of Rights, art. 47(a) (emphasis added) (affording victims the right “upon request and if practicable . . . to attend a criminal justice proceeding. . .”).

<sup>61</sup> *See, e.g.*, Md. Code Ann. Crim. Proc. §§ 11-302(c)(2), (d)(2) (affording victims right to be present at the trial “after initially testifying” and authorizing courts to sequester victims following their testimony if the court determines a victim’s presence “would influence the victim’s . . . future testimony in a manner that would materially affect a defendant’s right to a fair trial or a child respondent’s right to a fair hearing”); Vt. Stat. Ann. tit. 13, § 5309 (right to be present “subject to the provisions of Rule 615 of the Vermont Rules of Evidence,” which authorizes requests for witness exclusion prior to the witness’s testimony).

<sup>62</sup> *See State v. Beltran-Felix*, 922 P.2d 30, 33–34 (Utah Ct. App. 1996) (collecting cases holding that the failure to sequester witnesses does not violate defendants’ constitutional rights and concluding that the crime victim’s constitutional or statutory right to be present did not facially violate defendant’s due process or fair trial rights); *see also* Beloof & Cassell, *supra* note 53, at 527–34 (compiling cases where courts considered constitutional implications of victim attendance at trial and finding only that one state court arguably found a conflict between victim presence and defendants’ constitutional rights).

<sup>63</sup> *See Nicely v. State*, 733 S.E.2d 715, 719 (Ga. 2012) (concluding that the statutory exemption from sequestration in the state’s victims’ rights law “promotes legitimate state interests, namely the interest of the State in according to crime victims the same right to be present as the Constitution accords to the accused” and does not violate the right of non-victims to equal protection).

<sup>64</sup> *See, e.g.*, Cal. Const. art. I, § 28(b)(8) (affording victims the right “[t]o be heard, upon request, at . . . any proceeding in which a right of the victim is at issue”); Fla. Const. art. I, § 16(b)(6)b (affording victims “[t]he right to be heard in . . . any proceeding during which a right of the victim is implicated.”) N.D. Const. art. I, § 25(1)(i) (affording victims “[t]he right to be heard in . . . any proceeding during which a right of the victim is implicated”); Ohio Const. art. I, § 10a(A)(3) (affording victims the right “to be heard . . . in any public proceeding in which a right of the victim is implicated”); Okla. Const. art. II, § 34(A) (affording victims the right “to be heard in . . . any proceeding during which a right of the victim is implicated”); Wis. Const. art. I, § 9m(2)(i) (affording victims the right “[u]pon request, to be heard in any proceeding during which a right of the victim is implicated”).

<sup>65</sup> *See, e.g.*, Ky. Const. § 26A (affording victims the right to be heard at proceedings involving release); N.D. Const. art. I, § 25(1)(i) (same); Ohio Const. art. I, § 10a(A)(3) (same); Okla. Const. art. II, § 34(A) (same); S.C. Const. art. I, § 24(A)(4)–(5) (same); Wis. Const. art. I, § 9m(2)(i) (same).

<sup>66</sup> *See, e.g.*, Alaska Const. art. II, § 24 (affording victims “the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication”); Conn. Const. art. I, § 8(b)(7)–(8) (affording victims “the right to object to or support any plea agreement entered into by the accused and the prosecution and to make a

---

statement to the court prior to the acceptance by the court of the plea of guilty or nolo contendere by the accused” and “the right to make a statement to the court at sentencing”); Ga. Const. art. I, § 1, ¶ XXX(a)(4) (affording victims the right “upon request to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused”); Ky. Const. § 26A (affording victims “the reasonable right . . . to be heard in any proceeding involving a release, plea, sentencing, or in the consideration of any pardon, commutation of sentence, granting of a reprieve, or other matter involving the right of a victim other than grand jury proceedings”); Nev. Const. art. I, § 8A(1)(n) (affording victims the right “[t]o be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender”); N.M. Const. art. II, § 24(A)(7) (affording victims of enumerated crimes “the right to make a statement to the court at sentencing and at any post-sentencing hearings for the accused”); N.D. Const. art. I, § 25(1)(i) (affording victims “[t]he right to be heard in any proceeding involving . . . plea, sentencing, adjudication, disposition”); Ohio Const. art. I, § 10a(A)(3) (affording victims the right “to be heard in any public proceeding involving . . . plea, sentencing, disposition”); Okla. Const. art. II, § 34(A) (affording victims the right “to be heard in any proceeding involving . . . plea, sentencing, disposition”); S.C. Const. art. I, § 24(A)(5) (affording victims the right “to be heard at any proceeding involving . . . a plea, or sentencing”); Wis. Const. art. I, § 9m(2)(i) (affording victims the right “[u]pon request, to be heard in any proceeding during which a right of the victim is implicated, including . . . plea, sentencing, [or] disposition”).

<sup>67</sup> See, e.g., Alaska Const. art. II, § 24 (affording victims “the right to be allowed to be heard, upon request . . . at any proceeding where the accused’s release from custody is considered”); Ariz. Const. art. II, § 2.1(A)(6) (affording victims the right “[t]o be heard at any proceeding when any post-conviction release from confinement is being considered”); Ky. Const. § 26A (affording victims “the reasonable right, upon request, . . . to be heard in any proceeding involving a release . . . or in the consideration of any pardon, commutation of sentence, granting of a reprieve, or other matter involving the right of a victim other than grand jury proceedings”); N.D. Const. art. I, § 25(1)(i) (affording victims “[t]he right to be heard in any proceeding involving . . . parole”); Ohio Const. art. I, § 10a(A)(3) (affording victims the right “to be heard in any public proceeding involving . . . parole”); Wis. Const. art. I, § 9m(2)(i) (affording victims the right “[u]pon request, to be heard in any proceeding during which a right of the victim is implicated, including . . . parole, revocation, expungement, or pardon”).

<sup>68</sup> See, e.g., 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(9)(B) (providing that if the State subpoenas a victim’s confidential or privileged records the prosecuting attorney must serve the subpoena at least 21 days prior to the date a response or appearance is required to allow the victim time to file a motion to quash or request a hearing); Wis. Const. art. I, § 9m(2)(b), (i) (affording victims the right to privacy and, upon request, to be heard in any proceeding during which a right of the victim is implicated).

<sup>69</sup> See, e.g., Cal. Const. art. I, § 28(b)(10) (affording victims the right “[t]o provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim’s family and any sentencing recommendations before the sentencing of the defendant”); Nev. Const. art. I, § 8A(1)(j) (affording victims the right “[t]o provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim’s family and any sentencing recommendations before the sentencing of the defendant”); N.D. Const. art. I, § 25(1)(k) (affording victims “[t]he right to provide information regarding the impact of the offender’s conduct on the victim and the victim’s family to the individual responsible for conducting any presentence or disposition investigation or compiling any presentence investigation report or recommendation regarding, and to have any such information considered in any sentencing or disposition recommendations”).

<sup>70</sup> See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (stating the right to be heard before suffering a loss is a principle basic to our society, and that the “fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner”).

<sup>71</sup> See, e.g., Miss. Code Ann. § 99-43-37 (“It is the discretion of the victim to exercise the right to be present and heard, where authorized by law, at a court proceeding . . . . The right of the victim to be heard may be exercised, where authorized by law, at the discretion of the victim, through an oral statement or submission of a written statement, or both.”).

<sup>72</sup> See, e.g., Utah Code Ann. § 77-38-4(7) (“Except as otherwise provided in this section, a victim’s right to be heard may be exercised at the victim’s discretion in any appropriate fashion, including an oral, written, audiotaped, or videotaped statement . . . .”).

<sup>73</sup> See *Kenna v. United States Dist. Ct. for the Cent. Dist. of Cal.*, 435 F.3d 1011, 1016 (9th Cir. 2006) (construing the federal statutory right to be heard to provide the victim with the right to make an oral statement at sentencing); *United States v. Degenhardt*, 405 F. Supp. 2d 1341, 1345–47 (D. Utah 2005) (concluding that the right to be heard gives victims the right to address the sentencing court in person). But see *United States v. Marcello*, 370 F. Supp. 2d

---

745, 747–48 (N.D. Ill. 2005) (concluding that the victim’s right to be heard was met where the victim was allowed to submit a written victim impact statement).

<sup>74</sup> See, e.g., *United States v. Issa*, 21 F.4th 504, 508 (7th Cir. 2021) (recognizing that victims may exercise their CVRA right to be heard at sentencing by filing a sentencing memorandum); Ariz. Rev. Stat. Ann. § 13-4437(A) (“The victim has standing to seek an order, to bring a special action or to file a notice of appearance in a trial court or an appellate proceeding, seeking to enforce any right or to challenge an order denying any right guaranteed to victims.”); Or. Rev. Stat. Ann. § 147.430(5)(b) (authorizing a victim to assert their rights “In writing, after providing a copy to the parties.”).

<sup>75</sup> See, e.g., Ala. Code § 15-23-74 (“The victim has the right to present evidence, an impact statement, or information that concerns the criminal offense or the sentence during any pre-sentencing, sentencing, or restitution proceeding.”); Alaska Const. art. II, § 24 (affording victims “the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication”); Ariz. Const. art. II, § 2.1(4) (affording victims the right “[t]o be heard at any proceeding involving . . . sentencing”); Cal. Const. art. I, § 28(b)(8) (affording victims the right “[t]o be heard, upon request, at any proceeding . . . involving . . . sentencing”); Cal. Penal Code § 679.02(a)(3) (affording the right, “[f]or the victim, the victim’s parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died . . . to reasonably express their views [at sentencing], have those views preserved by audio or video means as provided in Section 1191.16, and to have the court consider their statements, as provided by Sections 1191.1 and 1191.15”); Colo. Const. art. II, § 16a (affording victims with “the right to be heard when relevant . . . at all critical stages of the criminal justice process, where Colo. Rev. Stat. Ann. § 24-4.1-302(2)(h) defines “critical stages” as including sentencing); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(d)(IV) (affording victims the right to be heard at any court proceeding “[a]t which a person accused or convicted of a crime against the victim is sentenced or resented”); Colo. Rev. Stat. § 24-4.1-302.5(g) (affording victims the right “to inform the district attorney and the court, in writing, by a victim impact statement, and by an oral statement, of the harm that the victim has sustained as a result of the crime, with the determination of whether the victim makes written input or oral input, or both, to be made at the sole discretion of the victim”); Conn. Const. art. I, § 8(b)(8) (affording victims “the right to make a statement to the court at sentencing”); Fla. Const. art. I, § 16(b)(6)b (affording victims “[t]he right to be heard in any public proceeding involving . . . sentencing”); Fla. Stat. Ann. § 921.143(1) (“(1) At the sentencing hearing, and prior to the imposition of sentence upon any defendant who has been convicted of any felony or who has pleaded guilty or nolo contendere to any crime, including a criminal violation of a provision of chapter 316, the sentencing court shall permit the victim of the crime for which the defendant is being sentenced . . . to: (a) [a]ppear before the sentencing court for the purpose of making a statement under oath for the record; and (b) [s]ubmit a written statement under oath to the office of the state attorney, which statement shall be filed with the sentencing court”); Ga. Const. art. I, § 1, ¶ XXX(a)(4) (affording victims the right “upon request to be heard at any scheduled court proceedings involving the . . . sentencing of the accused”); Ill. Const. art. I, § 8.1(a)(5) (providing crime victims “[t]he right to be heard at any court proceeding involving . . . sentencing”); Ind. Code Ann. § 35-40-5-5 (“A victim has the right to be heard at any proceeding involving sentencing[.]”); Iowa Code § 915.21(1)(b) (authorizing victims to present a victim impact statement at sentencing); Ky. Const. § 26A (affording victims “the reasonable right . . . to be heard in any proceeding involving . . . sentencing”); La. Const. Ann. art. I, § 25 (providing that “[a]s defined by law, a victim of crime shall have the right to . . . [be] heard during all critical stages of preconviction and postconviction proceedings,” where, under La. Rev. Stat. Ann. § 1842(4), “critical stage” includes sentencing); Me. Rev. Stat. tit. 17-A, § 2104(1) (“The victim must be provided the opportunity to participate at sentencing by: A. [m]aking an oral statement in open court; or B. [s]ubmitting a written statement to the court either directly or through the attorney for the State.”); Mass. Gen. Laws ch. 258B, § 3(p) (affording victims the right “to be heard through an oral and written victim impact statement at sentencing . . . about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine. . .”); Minn. Stat. Ann. § 611A.038(a) (“A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing.”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to make a statement to the court at sentencing”); Miss. Const. art. III, § 26A(1) (“Victims of crime, as defined by law, . . . to be heard, when authorized by law, during public hearings,” where Miss. Code Ann. § 99-43-33 authorizes victims to present an impact statement or other information concerning the offense at sentencing); Neb. Const. art. I, § 28(1) (affording victims the right to “make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings”); Nev. Const. art. I, § 8A(1)(h) (affording victims the right “[t]o be reasonably heard, upon request, at any public proceeding . . . in any court involving . . . sentencing”); N.H. Rev. Stat. Ann. § 21-M:8-k(I)(p) (affording victims “[t]he right to appear and be heard at any disposition and any proceeding involving the release, plea, sentencing, or parole of the accused, including the right to be notified of, to attend, and to make a written or oral impact statement at the sentence review hearings and sentence reduction hearings. No victim shall be subject to

---

questioning by counsel when being heard.”); N.J. Stat. Ann. § 52:4B-36(n) (affording victims the right “[t]o make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime”); N.M. Const. art. II, § 24(A)(7) (affording victims of enumerated crimes “the right to make a statement to the court at sentencing and at any post-sentencing hearings for the accused”); N.D. Const. art. I, § 25(1)(i) (affording victims “[t]he right to be heard in any proceeding involving . . . sentencing”); Ohio Const. art. I, § 10a(A)(3) (affording victims the right “to be heard in any public proceeding involving . . . sentencing”); Okla. Const. art. II, § 34(A) (affording victims the right “to be heard in any proceeding involving . . . sentencing”); Or. Const. art. I, § 42(1)(a) (affording victims the right “to be heard at . . . sentencing”); 42 Pa. Stat. and Cons. Stat. Ann. § 11.201(5) (affording victims the “opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim’s family”); R.I. Gen. Laws § 12-28-3(a)(11) (affording victims “the right to address the court prior to sentencing in those cases where the defendant has been adjudicated guilty following a trial”); R.I. Const. art. I, § 23 (“Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator’s conduct has had upon the victim.”); S.C. Const. art. I, § 24(A)(5) (affording victims the right to “be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing”); S.D. Const. art. VI, § 29(9) (affording victims “[t]he right to be heard in any proceeding involving . . . sentencing”); S.D. Codified Laws § 23A-28C-1(8) (affording victims the right “[t]o provide to the court a written or oral victim impact statement prior to sentencing regarding the financial and emotional impact of the crime on the victim and his or her family as well as recommendations for restitution and sentencing”); Tenn. Const. art. I, § 35(4) (affording victims “[t]he right to be heard, when relevant, at all critical stages of the criminal justice process as defined by the General Assembly,” where Tenn. Code Ann. § 40-38-302(2)(c) defines “critical stages” as including sentencing); Utah Const. art. I, § 28(1)(b) (affording victims the right to be heard at “important criminal justice hearings,” which Utah Code Ann. § 77-38-2(5)(f) defines to include sentencing); Utah Code Ann. § 77-38-4(1)(b) (affording victims the right to be heard at “important criminal justice hearings,” which Utah Code Ann. § 77-38-2(5)(f) defines to include sentencing); Vt. Stat. Ann. tit. 13, § 5321(a)(2) (affording victims the right, at sentencing, “to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution”); Va. Const. art. I, § 8-A(3) (affording victims “[t]he right to address the circuit court at the time sentence is imposed”); Wis. Const. art. I, § 9m(2)(i) (affording victims the right “[u]pon request, to be heard in any proceeding during which a right of the victim is implicated, including . . . sentencing”); Wyo. Stat. Ann. § 14-6-502(a)(xvii) (affording victims the right “[t]o be notified about the opportunity to make a statement at the disposition hearing”); Wyo. Stat. Ann. § 7-21-103(a) (“At any hearing to determine, correct or reduce a sentence, an identifiable victim of the crime may submit, orally, in writing or both, a victim impact statement to the court.”). *Cf. People v. Hemmings*, 808 N.E.2d 336, 339 (N.Y. 2004) (internal quotation marks and citation omitted) (stating that the state’s victims’ rights laws “elevated what had previously been a privilege left entirely to the discretion of the sentencing court to a right that a victim could exercise at his or her discretion”).

<sup>76</sup> See 18 U.S.C. § 3771(a)(4) (affording victims “[t]he right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding”); *Kenna v. United States Dist. Ct. for Cent. Dist. of Cal.*, 435 F.3d 1011, 1016–17 (9th Cir. 2006) (interpreting the right to be heard under the CVRA as a victim’s “indefeasible right to speak, similar to that of the defendant, and for good reason: The effects of a crime aren’t fixed forever once the crime is committed – physical injuries sometimes worsen; victims’ feelings change; secondary and tertiary effects such as broken families and lost jobs may not manifest themselves until much time has passed. The district court must consider the effects of the crime on the victims at the time it makes its decision with respect to punishment, not as they were at some point in the past. Moreover, the CVRA gives victims the right to confront every defendant who has wronged them; speaking at a co-defendant’s sentencing does not vindicate the right of the victims to look *this* defendant in the eye and let him know the suffering his misconduct has caused.”).

<sup>77</sup> See, e.g., Ala. Const. art. I, § 6.01(a) (“Crime victims, as defined by law or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when authorized, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the person accused of committing the crime.”); Conn. Const. art. I, § 8(b)(7) (affording victims “the right to object to or support any plea agreement entered into by the accused and the prosecution and to make a statement to the court prior to the acceptance by the court of the plea of guilty or nolo contendere by the accused”); Idaho Const. art. I, § 22(6) (affording victims the right “[t]o be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result”); Kan. Const. art. XI, § 15(a) (affording victims the right “to be present at public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional or statutory rights of

---

the accused.”); Md. Const. Decl. of Rights, art. 47(b) (affording victims the right, “if practicable . . . to be heard at a criminal justice proceeding as implemented by law”); Md. Code Ann., Crim. Proc. § 11-403(b) (“In the sentencing or disposition hearing the court, if practicable, shall allow the victim or the victim’s representative to address the court under oath before the imposition of sentence or other disposition: (1) at the request of the prosecuting attorney; (2) at the request of the victim or the victim’s representative; or (3) if the victim has filed a notification request form under § 11-104 of this title.”); Mo. Const. art. I, § 32(2) (affording victims the right “to be heard at guilty pleas, bail hearings, sentencings, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise”); N.C. Const. art. I, § 37(1a)(b) (affording victims “[t]he right to be reasonably heard at any court proceeding involving the plea, conviction, adjudication, sentencing, or release of the accused”); Wash. Const. art. I, § 35 (“Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right . . . , subject to the discretion of the individual presiding over the trial or court proceedings, . . . to make a statement at sentencing[.]”).

<sup>78</sup> See, e.g., Conn. Const. art. I, § 8(b)(3) (affording victims “the right to be reasonably protected from the accused throughout the criminal justice process”); Fla. Const. art. I, § 16(b)(3) (affording victims “[t]he right, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused”); Ill. Const. art. I, § 8.1(a)(8) (affording victims “[t]he right to be reasonably protected from the accused throughout the criminal justice process”); Ky. Const. § 26A (affording victims “the right to reasonable protection from the accused and those acting on behalf of the accused throughout the criminal and juvenile justice process”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to be reasonably protected from the accused throughout the criminal justice process”); Mo. Const. art. I, § 32(1)(6) (affording victims “[t]he right to reasonable protection from the defendant or any person acting on behalf of the defendant”); Nev. Const. art. I, § 8A(1)(b) (affording victims the right “[t]o be reasonably protected from the defendant and persons acting on behalf of the defendant”); N.M. Const. art. II, § 24(A)(3) (affording victims of enumerated crimes “the right to be reasonably protected from the accused throughout the criminal justice process”); N.D. Const. art. I, § 25(1)(c) (affording victims “[t]he right to be reasonably protected from the accused and any person acting on behalf of the accused”); Ohio Const. art. I, § 10a(A)(4) (affording victims the right “to reasonable protection from the accused or any person acting on behalf of the accused”); Okla. Const. art. II, § 34(A) (affording victims the right “to reasonable protection”); Or. Const. art. I, § 43(1)(a) (affording victims “[t]he right to be reasonably protected from the criminal defendant or the convicted criminal throughout the criminal justice process and from the alleged youth offender or youth offender throughout the juvenile delinquency proceedings”); S.C. Const. art. I, § 24(A)(6) (affording victims the right to “be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process”); S.D. Const. art. VI, § 29(3) (affording victims “[t]he right to be reasonably protected from the accused and any person acting on behalf of the accused”); Tex. Const. art. I, § 30(a)(2) (affording victims “the right to be reasonably protected from the accused throughout the criminal justice process”); Wis. Const. art. I, § 9m(f) (affording victims the right “[t]o reasonable protection from the accused throughout the criminal and juvenile justice process”); Vt. Stat. Ann. tit. 13, § 5310 (“A witness testifying in a criminal proceeding, including any discovery proceedings, shall not be compelled to disclose the victim’s residential address or place of employment on the record unless the court finds, based upon a preponderance of the evidence, that nondisclosure of the information will prejudice the defendant.”).

<sup>79</sup> See 18 U.S.C. § 3771(a)(1) (affording victims “[t]he right to be reasonably protected from the accused”).

<sup>80</sup> See, e.g., Cal. Const. art. I, § 28(b)(1) (affording victims the right “to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process”); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(a) (affording victims the right “to be free from intimidation, harassment, or abuse, throughout the criminal justice process”); Fla. Const. art. I, § 16(b)(2) (affording victims “[t]he right to be free from intimidation, harassment, and abuse”); Ill. Const. art. I, § 8.1(a)(1) (affording victims the right “to be free from harassment, intimidation, and abuse throughout the criminal justice process”); Nev. Const. art. I, § 8A(1)(a) (affording victims the right “to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process”); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(c) (affording victims “[t]he right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process, including the right to relocate for the victim’s safety”); N.D. Const. art. I, § 25(1)(b) (affording victims “[t]he right to be free from intimidation, harassment, and abuse”); S.C. Const. art. I, § 24(1) (affording victims the right “to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process”); S.D. Const. art. VI, § 29(2) (affording victims “[t]he right to be free from intimidation, harassment and abuse”); Tenn. Const. art. I, § 35(2) (affording victims “[t]he right to be free from intimidation, harassment and abuse throughout the criminal justice system”); see also Haw. Rev. Stat. Ann. § 801D-4(a)(3) (affording victims the right, upon written request, “[t]o receive protection from threats or harm”); Ky. Rev. Stat. Ann. § 421.500(5)(e) (providing that attorneys for the Commonwealth should make a reasonable effort to ensure that “victims receive protection from harm and threats of harm arising out of cooperation with law

---

enforcement and prosecution efforts”); R.I. Gen. Laws Ann. § 12-28-3(a)(3) (affording victims the right “[t]o receive protection from harm and threats of harm arising out of the victim’s cooperation with law enforcement and prosecution efforts, and to be provided with information as to the means of protection available”).

<sup>81</sup> See, e.g., Ky. Const. § 26A (affording victims the right to be treated with consideration for their safety); N.H. Rev. Stat. Ann. § 21-M:8-k(II)(a) (affording victims the right to be treated with respect for their safety); Ohio Const. art. I, § 10a(A)(1) (same); Okla. Const. art. II, § 34(A) (same).

<sup>82</sup> See, e.g., Alaska Const. art. I, § 24 (affording victims “the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court”); Cal. Const. art. I, § 28(b)(3) (affording victims the right “[t]o have the safety of the victim and the victim’s family considered in fixing the amount of bail and release conditions for the defendant”); Fla. Const. art. I, § 16(b)(4) (affording victims “[t]he right to have the safety and welfare of the victim and the victim’s family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim’s family”); Ill. Const. art. I, § 8.1(a)(9) (affording victims “[t]he right to have the safety of the victim and the victim’s family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction”); Ky. Const. § 26A (affording victims “the right to have the safety of the victim and the victim’s family considered in setting bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction”); Nev. Const. art. I, § 8A(1)(c) (affording victims the right “[t]o have the safety of the victim and the victim’s family considered as a factor in fixing the amount of bail and release conditions for the defendant”); N.D. Const. art. I, § 25(1)(d) (affording victims “[t]he right to have the safety and welfare of the victim and the victim’s family considered when setting bail or making release decisions”); S.D. Const. art. VI, § 29(4) (affording victims “[t]he right to have the safety and welfare of the victim and the victim’s family considered when setting bail or making release decisions”); Va. Const. art. I, § 8-A(1) (affording victims “[t]he right to protection from further harm or reprisal through the imposition of appropriate bail and conditions of release”).

<sup>83</sup> See, e.g., Ala. Code § 15-23-75(4) (affording victims the right to notice “of the release on bond of the defendant”); Alaska Const. art. I, § 24 (affording victims “the right to be informed, upon request, of the accused’s escape or release from custody before or after conviction or juvenile adjudication”); Colo. Rev. Stat. § 24-4.1-302.5(c) (affording victims the right to be informed of defendant’s release from county jail, other institutions, or parole), Colo. Rev. Stat. § 24-4.1-303(14) (affording victims the right to notice of defendant’s projected release dates and of any release of defendant “on furlough or work release or to a community correctional facility or other program, or statutory discharge in advance of such release”); Fla. Const. art. I, § 16(b)(6)a (“A victim shall [ ] be provided reasonable, accurate, and timely notice of any release of the defendant or delinquent[.]”); Ga. Const. art. I, § 1, ¶ XXX(a)(2) (affording victims “[t]he right upon request to reasonable, accurate, and timely notice of release”); Haw. Rev. Stat. Ann. § 801D-4(a)(1) (affording victims the right, upon written request, and if the crime charged is a felony, to “be notified . . . whenever the defendant or perpetrator is released from custody); Ky. Const. § 26A (affording victims “the right to timely notice, upon request, of release or escape of the accused”); Ky. Rev. Stat. Ann. § 421.500(5)(b) (affording victims the right to “prompt notification, if possible, of the defendant’s release on bond and any special conditions of release”); Mass. Gen. Laws ch. 258B, § 3(t) (affording victims the right to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody); Mich. Const. art. I, § 24(1) (affording victims the right information about the imprisonment and release of the accused); Mich. Comp. Laws Ann. § 780.768a(1)(b) (affording victims the right, upon request, to notice if defendant has been released pending appeal); Mich. Comp. Laws Ann. § 780.755(1) (requiring law enforcement, upon request, to “promptly notify” the victim of defendant’s pretrial release); Minn. Stat. Ann. § 611A.06(1)(a) (requiring the custodial authority, upon written request, to make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration); Mo. Const. art. I, § 32(7) (affording victims the right to notice of defendant’s release); Nev. Const. art. I, § 8A(1)(o) (affording victims the right “[t]o have the safety of the victim, the victim’s family and the general public considered before any parole or other postjudgment release decision is made”); N.D. Const. art. I, § 25(1)(h) (affording victims “[t]he right to be promptly notified of any release or escape of the accused”); N.D. Cent. Code Ann. § 12.1-34-02(4), (17), (18) (affording victims the right to notice of pretrial release, custodial release and parole); Ohio Const. art. I, § 10a(A)(5) (affording victims the right “upon request, to reasonable notice of any release or escape of the accused”); Okla. Const. art. II, § 34(A) (affording victims the right, upon request, to reasonable notice of any release); S.C. Const. art. I, § 24(A)(2) (affording victims the right “[t]o be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped”); Va. Const. art. I, § 8-A(6) (affording victims “[t]he right to be advised of release from custody or escape of the offender, whether before or after disposition”).

<sup>84</sup> See, e.g., Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(c)(I)(B) (affording victims the right to be informed when a person who is accused or convicted “escapes from a secure or nonsecure correctional facility or program”); Fla.

---

Const. art. I, § 16(b)(6)a (affording victims, upon request, the right to reasonable, accurate, and timely notice of escape defendant's escape); Ga. Const. art. I, § 1, ¶ XXX(a)(2) (affording victims the right, upon request, reasonable, accurate, and timely notice of the escape of the accused); Haw. Rev. Stat. Ann. § 801D-4(a)(7) (affording victims the right, upon written request, "[t]o be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term"); Ky. Const. § 26A (affording victims "the right to timely notice, upon request, of release or escape of the accused"); Mass. Gen. Laws ch. 258B, § 3(t) (affording victims the right to be informed whenever the defendant escapes from custody); Minn. Stat. Ann. § 611A.06(3) (requiring the custodial authority to make all reasonable efforts to notify a victim of escape); Mo. Const. art. I, § 32(7) (affording victims the right to notice of defendant's escape from custody or confinement); N.D. Const. art. I, § 25(1)(h) (affording victims "[t]he right to be promptly notified of any release or escape of the accused"); Ohio Const. art. I, § 10a(A)(5) (affording victims the right "upon request, to reasonable notice of any release or escape of the accused"); Ohio Rev. Code Ann. § 2930.16(C)(4) (affording victims the right to "[p]rompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency"); Okla. Const. art. II, § 34(A) (affording victims the right, upon request, to reasonable notice of any escape); S.C. Const. art. I, § 24(A)(2) (affording victims the right to "be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped"); Tenn. Const. art. I, § 35(5) (affording victims "[t]he right to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person"); Va. Const. art. I, § 8-A(6) (affording victims "[t]he right to be advised of release from custody or escape of the offender, whether before or after disposition").

<sup>85</sup> See, e.g., Md. Code Ann., Corr. Servs. § 7-805(e) (requiring notification to the victim or the victim's representative of decision in an inmate's application for commutation of sentence, pardon, or remission of sentence); Nev. Rev. Stat. Ann. § 213.095 (requiring written notice to the victim when a person is granted clemency); N.C. Gen. Stat. Ann. § 15A-838 (notice of commuted sentence or pardon); N.D. Cent. Code § 12.1-34-02(18) (affording victims the right to notice of the date of a prisoner's pardon, conditional pardon, reprieve, commutation, or remission of fine); Tenn. Code Ann. § 40-27-110 (requiring that victims are notified of clemency decisions).

<sup>86</sup> See 18 U.S.C. § 3771 (affording victims "[t]he right to reasonable, accurate, and timely notice of . . . any parole proceeding, involving the crime or of any release or escape of the accused").

<sup>87</sup> See, e.g., Ark. Code Ann. § 16-85-714(b)(1) (detailing when a court may issue a no contact order in addition to other conditions of release); N.J. Stat. Ann. § 2C:44-8 ("When a defendant is found guilty of a sex offense, the court may, at the time of sentencing and in addition to any other disposition authorized by law, order the continuation of a prior order or condition of bail that restricts the defendant's contact with the victim, or enter an order imposing such restrictions at the time of sentencing.").

<sup>88</sup> See, e.g., N.Y. Crim. Proc. Law § 530.13 (authorizing protective orders for crime victims); Wyo. Stat. Ann. § 7-3-507 (same).

<sup>89</sup> See, e.g., Ala. Code § 15-23-69(a) (providing that, based on "reasonable apprehension of the victim of acts or threats of physical violence or intimidation by the defendant, the family of the defendant, or by anyone at the direction of the defendant," the prosecutor may ask the court to direct that the victim or any other witness not be compelled to testify pretrial as to "facts that could divulge the identity, residence, or place of employment of the victim, or other related information without consent of the victim unless necessary to the prosecution of the criminal proceeding"); Del. Code Ann. tit. 11 § 9403(b) ("A court may not compel a victim or witness or a member of the victim's or witness's family testifying in a criminal justice proceeding to disclose a residential address or place of employment on the record unless the court finds that disclosure of the information is necessary."); Md. Code Ann., Crim. Proc. § 11-301 (providing that the court, upon a motion by the state or the victim, may prohibit disclosure of victim address and phone number during trial); Minn. Stat. Ann. § 611A.035(2) (providing that victims cannot be compelled to disclose their residential address or employment during trial testimony); Ohio Rev. Code Ann. § 2930.07(A) (providing that prosecutor may file a motion requesting an order that the victim not be compelled to testify regarding their address if there are "reasonable grounds" for the victim to apprehend acts or threats of violence against the victim or their family).

<sup>90</sup> See, e.g., Ala. Code § 15-23-68 ("The court shall provide a waiting area for the victim separate from the defendant, relatives of the defendant, and defense witnesses, if an area is available and the use of the area is practical. If a separate waiting area is not available, or its use impractical, the court shall minimize contact of the victim with the defendant, relatives of the defendant, and defense witnesses during court proceedings. For victims of domestic violence, if a separate waiting area is not available, the presiding circuit judge shall create procedures so that the defendant has no contact with the victim."); Ark. Code Ann. § 16-21-106(d)(4) (requiring prosecutors to

---

provide, “when possible, a secure waiting area during court proceedings that does not require the persons to be in close proximity to the defendants and families and friends of the defendants and otherwise make a reasonable effort to minimize unwanted contact between the victim, members of the victim’s family, or prosecution witnesses and the defendant, members of the defendant’s family, or defense witnesses before, during, and immediately after a judicial proceeding”); Colo. Rev. Stat. § 24-4.1-302.5(1)(p) (affording victims “[t]he right to be provided, whenever practicable, with a secure waiting area during court proceedings that does not require a victim or a witness to be seen or to be in close proximity to the person accused or convicted of a crime against the victim or such person’s family or friends”); Haw. Rev. Stat. § 801D-4(a)(5) (affording victims the right, upon written request, “[t]o be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants”); 725 Ill. Comp. Stat. Ann. 120/4.5(b)(6) (requiring that the Office of the State Attorney provide a secure waiting area during court proceedings that does not require victims to be in close proximity to defendants, their families or friends); Mass. Gen. Laws Ann. ch. 258B, § 3(i) (requiring that courts provide victims “with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant’s family, friends, attorneys or witnesses and separate from the district attorney’s office; provided, however, that the court shall designate a waiting area at each courthouse; and provided further, that designation of those areas shall be made in accordance with the implementation plan developed by the task force”); Mich. Comp. Laws Ann. § 780.757(7) (“The court shall provide a waiting area for the victim separate from the defendant, defendant’s relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim’s contact with defendant, defendant’s relatives, and defense witnesses during court proceedings.”); N.D. Cent. Code Ann. § 12.1-34-02(10) (“Victims and witnesses must be provided by prosecuting attorneys and defense attorneys as assisted by the court with a waiting area separate from the defendant, defendant’s relatives and friends, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victims’ and witnesses’ contact with the defendant, defendant’s relatives and friends, and defense witnesses during court proceedings.”)

<sup>91</sup>See, e.g., Nev. Const. art. I, § 8A(1)(q) (affording victims the right “[t]o be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public”); S.C. Const. art. I, § 24(1) (affording victims the right to be “informed of the victim’s constitutional rights, provided by statute”); Va. Code Ann. § 19.2-11.01 (“As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim’s rights under § 40.1-28.7:2.”).

<sup>92</sup>See, e.g., Ala. Code § 15-23-62(4) (affording victims the right to information about the procedural steps in a criminal prosecution); Alaska Const. art. I, § 24 (affording victims “the right to obtain information about . . . all criminal or juvenile proceedings where the accused has the right to be present”); Cal. Const. art. I, § 28(b)(15) (affording victims the right “[t]o be informed of all parole procedures”); Fla. Const. art. I, § 16(b)(6)g (affording victims “[t]he right to be informed of all postconviction processes and procedures”); Fla. Stat. § 960.001(1)(a)(3)–(4) (affording victims the right to information regarding “[t]he role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system as well as what the system expects from the victim” and “the stages in the criminal or juvenile justice process which are of significance to the victim”); Ga. Code Ann. § 17-17-6(a)(1) (affording victims the right to information regarding “the victim’s role in the stages of the criminal justice process”); Mass. Gen. Laws ch. 258B, § 3(a) (“At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim’s role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case[.]”); Miss. Code Ann. § 99-43-7(1)(d) (providing that law enforcement must provide victims with information regarding the procedural steps involved in a criminal prosecution); Mo. Const. art. I, § 32(1)(8) (affording victims the right to information about how the criminal justice system works); N.H. Rev. Stat. § 21-M:8-k(II)(b) (affording victims the right to be informed about the criminal justice process and how it progresses); N.C. Const. art. I, § 37(1a)(d) (affording victims “[t]he right to be given information about the crime or act of delinquency and how the criminal justice system works”); Tenn. Code Ann. § 40-38-103(a)(1)(A) (affording victims the right to information from a victim-witness coordinator about the various steps and procedures involved in the criminal justice system); Tex. Code Crim. Proc. Ann. art. 56A.451(a)(2) (requiring that the prosecutor provide victims with “a brief general statement of each procedural stage in the processing of a criminal case”); Utah Code Ann. § 77-37-3(1)(c) (“Victims

---

and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.”); *see also* Kan. Stat. Ann. § 74-7333(a)(3) (“Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims”); *id.* § 74-7333(a)(4) (“Information should be made available to victims about their participation in criminal proceedings”).

<sup>93</sup> *See, e.g.*, Mo. Const. art. I, § 32(1)(8) (affording victims the right to, upon request, information about the crime); Mo. Ann. Stat. § 595.209(1)(2) (same); N.D. Cent. Code Ann. § 12.1-34-02 (“Victims . . . , upon request, must be informed by law enforcement authorities investigating a criminal case of the status of the investigation, except where the prosecuting attorney or law enforcement authority determines that to disclose such information would unreasonably interfere with the investigation, until such time as the alleged offender is apprehended or the investigation is closed.”); Wis. Const. art. I, § 9m(2)(o) (affording victims the right, “[u]pon request, to reasonable and timely information about the status of the investigation and the outcome of the case”); Wyo. Stat. Ann. § 1-40-204 (a)(ii) (“Victims of a criminal act shall be informed without undue delay by law enforcement about . . . [t]he right to be informed of the status of the case from the initial police investigation to the final appellate review[.]”).

<sup>94</sup> *See, e.g.*, Cal. Const. art. I, § 28(b)(12) (affording victims the right “[t]o be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody”); Conn. Const. art. I, § 8(b)(10) (affording victims the right to information about the arrest, conviction, sentence, imprisonment and release of the accused); Fla. Const. art. I, § 16(b)(6)f (affording victims “[t]he right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender”); Ill. Const. art. I, § 8.1(a)(6) (affording victims “[t]he right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to information about the conviction, sentence, imprisonment, and release of the accused”); N.C. Const. art. I, § 37(1a)(e) (affording victims “[t]he right upon request to receive information about the conviction, adjudication, or final disposition and sentence of the accused”); N.M. Const. art. II, § 24(A)(9) (affording victims of enumerated crimes “the right to information about the conviction, sentencing, imprisonment, escape or release of the accused”); Nev. Const. art. I, § 8A(1)(k) (affording victims the right “[t]o be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant”); N.C. Const. art. I, § 37(1a)(e) (affording victims “[t]he right upon request to receive information about the conviction, adjudication, or final disposition and sentence of the accused”); Or. Const. art. I, § 42(1)(b) (affording victims “[t]he right, upon request, to obtain information about the conviction, sentence, imprisonment, criminal history and future release from physical custody of the criminal defendant or convicted criminal and equivalent information regarding the alleged youth offender or youth offender”); S.D. Const. art. VI, § 29(16) (affording victims “[t]he right, upon request, to be informed of the conviction, adjudication, sentence, disposition, place and time of incarceration, detention or other disposition of the offender, any scheduled release date of the offender”); Tenn. Code Ann. § 40-38-103(a)(1)(D) (affording victims the right to information from a victim-witness coordinator about “[t]he times, dates and locations of all pertinent stages in the proceedings following presentment or indictment by the grand jury”); Tex. Const. art. I, § 30(b)(5) (affording victims the right to information about the conviction, sentence, imprisonment).

<sup>95</sup> *See, e.g.*, 18 U.S.C. § 3771(a)(10) (affording victims the right to be informed of their rights, including the right to restitution); Ariz. Rev. Stat. Ann. § 13-4408(A)(1) (requiring the prosecutor to notify victims, within seven days of charging an offender, of their constitutional, statutory and rule-based rights); Fla. Const. art. I, § 16(b)(11) (guaranteeing victims the right to information about their rights); Ky. Const. § 26A (affording victims “the right to be informed of these enumerated rights”); Ky. Rev. Stat. Ann. § 421.500(3)–(5) (directing law enforcement personnel and state attorneys to provide victims with certain information regarding their rights); Wis. Const. art. I, § 9m(2)(p) (providing victims with a broad right to notice of all of their rights, privileges and protections and how such rights, privileges and protections are enforced); La. Const. Ann. art. I, § 25 (“Any person who is a victim of crime . . . shall be informed of the rights accorded under this Section.”); Mass. Gen. Laws ch. 258B, § 3(a) (affording victims the right “to be informed by the prosecutor about the victim’s rights in the criminal process, including but not limited to the rights provided under this chapter”); Miss. Code Ann. § 99-43-7(1)(e) (providing that law enforcement must provide victims with information regarding their constitutional rights and the form to use to invoke them); Mo. Const. art. I, § 32(1)(8) (affording victims the right to information about their rights); Nev. Const. art. I, § 8A(1)(q) (affording victims the right “[t]o be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public”); N.C. Const. art.

---

I, § 37(1a)(d) (affording victims “[t]he right to be given information about . . . the rights of victims”); S.C. Const. art. I, § 24(1) (affording victims the right to be “informed of the victim’s constitutional rights, provided by statute”).<sup>96</sup> See, e.g., Alaska Stat. § 12.55.023(a) (affording victim the right to look at specific portions of the presentence report); Ala. Code § 15-23-73(b) (“The victim shall have the right to review a copy of the pre-sentence investigative report, subject to the applicable federal or state confidentiality laws, at the same time the document is available to the defendant.”); Ariz. Const. art. II, § 2.1(A)(7) (affording victims the right to read presentence reports relating to the crime against the victim when such reports are available to the defendant); Ariz. Rev. Stat. Ann. § 13-4425 (affording victim right to review presentence report, “except those parts excised by the court or made confidential by law”); Cal. Const. art. I, § 28(b)(11) (affording victims the right “[t]o receive, upon request, the presentence report when available to the defendant, except for those portions made confidential by law”); Fla. Const. art. I, § 16(b)(6)(e) (affording victims “[t]he right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim’s right, except for such portions made confidential or exempt by law”); Idaho Const. art. I, § 22(9) (affording victims the right “[t]o read presentence reports relating to the crime”); Ind. Stat. Ann. 35-40-5-6(b) (affording victims the right to read specific portions of the presentence report); La. Const. Ann. art. I, § 25 (“As defined by law, a victim of crime shall have . . . the right to review and comment upon the presentence report prior to imposition of sentence”); N.D. Const. art. I, § 25(1)(l) (affording victims “[t]he right, upon request, to receive a copy of any report or record relevant to the exercise of a victim’s right, except for those portions made confidential by law or unless a court determines disclosure would substantially interfere with the investigation of a case, and to receive a copy of any presentence report or plan of disposition when available to the defendant or delinquent child”); Or. Const. art. I, § 42(1)(e) (affording victims “[t]he right to have a copy of a transcript of any court proceeding in open court, if one is otherwise prepared”); S.D. Const. art. VI, § 29(12) (affording victims “[t]he right, upon request, to receive a copy of any pre-sentence report or plan of disposition, and any other report or record relevant to the exercise of a victim’s right, except for those portions made confidential by law”).

<sup>97</sup> See *Crime Victims’ Rights and Interests Require Their Timely Receipt of Copies of Police Reports*, NCVLI (2023), <https://ncvli.org/crime-victims-rights-and-interests-require-their-timely-receipt-of-copies-of-police-reports-2023/>.

<sup>98</sup> See, e.g., *United States v. Eisenberg*, No. 06 CR. 781 (DLC), 2008 WL 2605125, at \*5 (S.D.N.Y. June 30, 2008) (recognizing that, under 18 U.S.C. § 3664(d)(5), a restitution order may be amended “upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief” and concluding that the fact that the victims only learned of the criminal proceedings after defendant was sentenced constituted such “good cause” to warrant an amendment of the order); see *United States v. Patel*, No. CRIM.A. 06-60006, 2009 WL 3232792, at \*3 (W.D. La. Sept. 30, 2009) (recognizing that the government may seek to amend a restitution order upon discovery of additional victim losses under 18 U.S.C. § 3664(d)(5), where the losses had not been known at the time of sentencing due to the victims having not been accorded their right to notice of their right to apply for restitution, because the failure to provide such notice constitutes “good cause” for failure to include the victims’ losses in the initial restitution claim, but finding that the court lacked jurisdiction to amend the restitution order in the case before it because an appeal of the order was pending).

<sup>99</sup> See generally Paul G. Cassell, *Treating Crime Victims Fairly: Integrating Victims into the Federal Rules of Criminal Procedure*, 2007 Utah L. Rev. 861, 931–32 (2008) (discussing how access to presentence reports affects victims’ ability to meaningfully exercise their rights).

<sup>100</sup> See, e.g., Ga. Code Ann. § 17-17-6(a)(2)–(3) (“Upon initial contact with a victim, all law enforcement and court personnel shall make available to the victim the following information written in plain language: . . . [t]he availability of victim compensation and, if the victim has been trafficked for labor or sexual servitude as defined in Code Section 16-5-46, compensation available through the federal government pursuant to 22 U.S.C. Section 7105; and . . . [t]he availability of community based victim service programs”); Haw. Rev. Stat. Ann. § 801D-4(a)(4) (affording victims the right, upon written request, “[t]o be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services”); Ky. Rev. Stat. Ann. § 421.500(3) (“Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible: (a) Availability of crime victim compensation where applicable; (b) Community-based treatment programs; (c) The criminal justice process as it involves the participation of the victim or witness; (d) The arrest of the accused; and (e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily

---

hospitalized pursuant to KRS Chapter 202A.”); Mass. Gen. Laws Ann. ch. 258B, § 3(e) (affording victims the right “to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services”); Miss. Code Ann. § 99-43-7(1)(a)–(b) (providing that law enforcement must provide victims with information regarding “[t]he availability of emergency and crisis services” and [t]he availability of victims’ compensation benefits and the address and telephone number of the Victim Compensation Division”); Tenn. Code Ann. § 40-38-103(a)(1)(I) (affording victims the right to information from a victim-witness coordinator information about “[t]he methods by which the victim may obtain a monetary award or other benefits from the criminal injuries compensation fund and information about obtaining assistance in securing the award or benefits”); *see also* Mo. Const. art. I, § 32(1)(8) (affording victims the right to information about the availability of services); N.C. Const. art. I, § 37(1a)(d) (affording victims “[t]he right to be given information about . . . the availability of services for victims”).

<sup>101</sup> *See, e.g., United States v. Erker*, No. 1:20-CV-478, 2022 WL 368264, at \*2 (N.D. Ohio Feb. 8, 2022) (denying defendant’s request for an indefinite continuation of trial on the grounds that, *inter alia*, the government had asserted the victims’ CVRA right to proceedings free from unreasonable delay and the court observed that the “victims have understood that this trial will commence in three weeks and subjecting them to another delay will disrupt their lives”); *United States v. Smith*, No. 3:16-cr-00086-SLG-1, 2020 WL 8910830, at \*2 (D. Alaska Mar. 14, 2020) (finding that delaying trial due to the COVID-19 pandemic did not cause “unreasonable delay” for the purposes of the CVRA); *see also* Blanche Bong Cook, *Stepping into the Gap: Violent Crime Victims, the Right to Closure, and a Discursive Shift Away from Zero Sum Resolutions*, 101 Ky. L. J. 671, 716 (2013) (stating that, for the purposes of determining whether a delay violates victims’ rights under the CVRA, “prejudice to the victim may include pain and anxiety caused by a lack of finality; the withering ability of the victim to testify and pinpoint evidence that can corroborate the victim’s testimony; the victim’s loss of memory caused by long delays; deliberate attempts by the defendant to wear down the victim’s resolve to testify; and interruption to the victim’s ability to lead a normal life as a result of inordinate delay”).

<sup>102</sup> *See, e.g.,* 18 U.S.C. § 3771(a)(7) (affording victims the right “[t]o proceedings free from unreasonable delay”); Alaska Const. art. I, § 24 (affording victims “the right to timely disposition of the case following the arrest of the accused”); Ariz. Const. art. II, § 2.1(A)(10) (affording victims the right “[t]o a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence”); Cal. Const. art. I, § 28(b)(9) (affording victims the right “[t]o a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings”); Conn. Const. art. I, § 8(b)(2) (affording victims “the right to timely disposition of the case following arrest of the accused, provided no right of the accused is abridged”); Fla. Const. art. I, § 16(b)(10) (affording victims “[t]he right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related postjudgment proceedings”); Idaho Const. art. I, § 22(2) (affording victims the right “[t]o timely disposition of the case”); Ill. Const. art. I, § 8.1(a)(7) (affording victims “[t]he right to timely disposition of the case following the arrest of the accused”); 725 Ill. Comp. Stat. Ann. 120/4.5(c-5)(11) (providing that “[a] victim has the right to timely disposition of the case so as to minimize the stress, cost, and inconvenience resulting from the victim’s involvement in the case” and providing procedures for prosecutors and courts to follow to afford victims their right to a timely disposition); Ky. Const. § 26A (affording victims “the right to proceedings free from unreasonable delay”); La. Const. Ann. art. I, § 25 (affording victims “the right to a reasonably prompt conclusion of the case”); Mass. Gen. Laws ch. 258B § 3(f) (affording victims the right “to a prompt disposition of the case in which they are involved”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to timely disposition of the case following arrest of the accused”); Minn. Stat. Ann. § 611A.033(a) (affording victims the right to request that the prosecutor make a demand that trial be commenced within 60 days of the demand); Miss. Code Ann. § 99-43-19 (“The victim shall have the right to a final disposition of the criminal proceeding free from unreasonable delay.”); Mo. Const. art. I, § 32.1(5) (affording victims “[t]he right to the speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his defense”); Neb. Rev. Stat. Ann. § 81-1848(2)(i) (affording victims the right to “a speedy disposition of the case in which they are involved as a victim . . . in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter”); Nev. Const. art. I, § 8A(1)(i) (affording victims the right “[t]o the timely disposition of the case following the arrest of the defendant”); N.M. Const. art. II, § 24(A)(2) (affording victims “the right to timely disposition of the case”); N.D. Const. art. I, § 25(1)(o) (affording victims “[t]he right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings”); N.D. Cent. Code § 12.1-34-02(13) (“Victims . . . must be informed by the prosecuting attorney of their rights to a prompt disposition of the cases in which they are involved as victims . . . as defined by the docket currency standards of the North Dakota supreme court.”); Ohio Const. art. I, § 10a(A)(8) (affording victims the right “to proceedings free from unreasonable delay and a prompt conclusion of the case”); Okla. Stat. Ann. tit. 21,

---

§ 142A-2(A)(17) (recognizing victims’ right “[t]o a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor”); S.C. Const. art. I, § 24(A)(11) (affording victims the right to “a reasonable disposition and prompt and final conclusion of the case”); S.D. Const. art. VI, § 29(15) (affording victims “[t]he right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings”); Tenn. Const. art. I, § 35(6) (affording victims “[t]he right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence”); Tenn. Code Ann. § 40-38-116 (“(a) In any criminal proceeding in which a continuance is requested, the court shall consider the victim’s views and the victim’s right to a speedy trial. If the continuance is granted over the victim’s objection, the court shall state on the record the reason for the continuance and the procedures that have been taken to avoid further delays. (b) In determining a date for any criminal trial or other important criminal hearing, the court shall consider the interests of the victim’s right to a speedy trial.”); Utah Code Ann. § 77-38-7(2) (“The victim of a crime has the right to a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor and to prompt and final conclusion of the case after the disposition or conviction and sentence, including prompt and final conclusion of all collateral attacks on dispositions or criminal judgments.”); Utah Code Ann. § 77-37-3(h) (“Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.”); Wis. Const. art. I, § 9m(2)(c)–(d) (affording victims the rights “[t]o proceedings free from unreasonable delay” and “[t]o timely disposition of the case, free from unreasonable delay”); Wyo. Stat. Ann. § 1-40-207 (“(a) The court shall consider the victim’s interest and circumstances when setting any date for trial or in granting or denying continuances. (b) Nothing in this section shall infringe upon any rights of the accused in a criminal case or inhibit the ability of the prosecution and defense from entering into any agreement as to trial setting or negotiated disposition of any charge or charges pending against the defendant.”); *see also, e.g.*, Md. Code Ann., Crim. Proc. § 11-1002(b)(13) (stating that a victim of crime “should be entitled to a speedy disposition of the case to minimize the length of time the person must endure responsibility and stress in connection with the case”).

<sup>103</sup> *See, e.g.*, 18 U.S.C. § 3509(j) (“In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. . . .”); Ark. Code Ann. § 16-80-102 (“Notwithstanding any rule of court to the contrary and in furtherance of the purposes of the Arkansas Rules of Criminal Procedure, Rule 27.1, all courts of this state having jurisdiction of criminal offenses, except for extraordinary circumstances, shall give precedence to the trials of criminal offenses over other matters before the court, civil or criminal, when the alleged victim is a person under the age of fourteen (14) years.”); Cal. Penal Code § 1048(b)(1) (“Notwithstanding subdivision (a), all criminal actions in which . . . a minor . . . is the victim of the alleged offense . . . shall be given precedence over all other criminal actions in the order of trial.”); Del. Code Ann. tit. 11, §§ 9404(b) (“Proceedings shall be expedited in cases involving a child victim or witness particularly in child abuse and sexual abuse cases.”); D.C. Code Ann. § 23-1903(d) (“In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or the victim’s legal or court-appointed representative, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall expedite the proceeding and ensure that it takes precedence over any other. . . .”); Fla. Stat. Ann. § 918.0155 (requiring the expeditious disposition of particular criminal cases involving child victims); Ky. Rev. Stat. Ann. § 421.510(1) (providing that the prosecution may request a speedy trial in cases involving child victims of sex crimes the right and that, if the request is granted, trial will be scheduled within 90 days of the hearing on the motion); Mass. Gen. Laws Ann. ch. 278, § 16F, para. 1 (“In any criminal proceeding involving an alleged sex crime perpetrated upon a minor child, or in which a minor child is expected to testify as a witness to a sex crime, the court shall, in order to minimize stress on such child, take action to expedite trial and give precedence to the case over any other case; provided, however, that nothing in this section shall be construed to mean that trial shall be expedited if it is not in the best interests of the child.”); Mich. Comp. Laws § 780.759(1)(a), (2) (providing that “a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be . . . [a] victim of child abuse, including sexual abuse or any other assaultive crime” and that, upon such a motion, “[t]he chief judge. . . shall set a hearing date within 14 days of the date of the filing of the motion[,] [n]otice shall be made pursuant to the Michigan court rules[,] [and] [i]f the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing”); Mo. Ann. Stat. § 491.710 (“In all criminal cases . . . involving a child victim . . . the court shall give docket priority. The court and the prosecuting or circuit attorney shall take appropriate action to insure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceeding. . . .”); Nev. Rev. Stat. § 174.519 (“If the trial involves acts committed against a child less than 16 years of age or involving acts witnessed by a child less than 16 years of age, the prosecuting attorney shall request the

---

court, in its discretion, to give preference in setting a date for the trial of the defendant. In making a ruling, the court may consider the effect a delay in the commencement of the trial might have on the mental or emotional health or well-being of the child.”); N.H. Rev. Stat. Ann. § 632-A:9 (“In any action under this chapter involving a victim 16 years of age or under . . . , the court and the department of justice shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding. . . .”); N.J. Stat. Ann. § 2A:163-5 (“In all criminal cases involving a child victim, the court shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement in the proceedings. . . .”); N.Y. Exec. Law § 642-a(3) (“To minimize the time during which a child victim must endure the stress of his involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. . . .”); N.D. Cent. Code Ann. § 12.1-35-05 (“In all criminal cases and juvenile proceedings involving a child victim . . . , the court and the state’s attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement in the proceedings. . . .”); Or. Rev. Stat. Ann. § 44.545(1) (“Except as otherwise provided in subsection (2) of this section or except for good cause shown by either party, in any case where a child or a member of the family of the child is a victim of a crime and where a child under 18 years of age is called to give testimony, the court, consistent with the rules of civil or criminal procedure, shall expedite the action and insure that it takes precedence over any other. . . .”); R.I. Gen. Laws Ann. § 11-37-11.2 (“In any action under this chapter involving a child victim age fourteen (14) years or under . . . , the court and the attorney general’s office shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding . . . .”); Tex. Code Crim. Proc. Ann. art. 32A.01(b) (“Unless extraordinary circumstances require otherwise, the trial of a criminal action in which the alleged victim is younger than 14 years of age shall be given preference over other matters before the court, whether civil or criminal.”); Utah Code Ann. § 77-37-3(h) (“Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.”); Wis. Stat. Ann. § 971.105 (“In all criminal . . . cases . . . involving a child victim or witness . . . the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of the child’s involvement in the proceeding. . . .”); *see also* Neb. Rev. Stat. § 29-1925 (“The Legislature recognizes that obtaining testimony in a criminal prosecution from a child victim of or a child witness to a felony offense may be a delicate matter and may require some special considerations. It is the intent of the Legislature to promote, facilitate, and preserve the testimony of such child victim or child witness in a criminal prosecution to the fullest extent possible consistent with the constitutional right to confrontation guaranteed by the Sixth Amendment of the Constitution of the United States and Article I, section 11, of the Nebraska Constitution.”); Utah Code Ann. § 77-37-1(2) (“The Legislature finds it is necessary to provide child victims and child witnesses with additional consideration and different treatment than that usually afforded to adults. The treatment should ensure that children’s participation in the criminal justice process be conducted in the most effective and least traumatic, intrusive, or intimidating manner.”). Some of these jurisdictions, as well as others, recognize this heightened interest by providing that, when a court decides a motion for a continuance or other request for a delay in a case where there is a child-victim, that court must consider and give weight to the adverse impact that such a delay could have on the child. *See, e.g.*, 18 U.S.C. § 3509(j) (“When deciding whether to grant a continuance [in cases involving child-victims], the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child’s well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.”); Cal. Penal Code § 1048(b)(1) (“In . . . actions [involving child-victims], continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.”); D.C. Code Ann. § 23-1903(d) (“When deciding whether to grant a continuance [in a case involving a child-victim], the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child’s well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child witness.”); 725 Ill. Comp. Stat. Ann. § 5/114-4(k) (requiring courts, when considering any motion or other request for a delay or a continuance in certain criminal cases involving a victim who is under 18 years of age, “consider and give weight to the adverse impact the delay or continuance may have on the well-being of a child or witness”); Ky. Rev. Stat. Ann. § 421.510 (providing that “[i]n ruling on any motion or other request for a delay or continuance of . . . proceedings [involving a child-victim], the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness”); Mass. Gen. Laws Ann. ch. 278, § 16F, para 2 (“When a motion or a request for a continuance is made [in a case involving a child-victim], the prosecutor shall file

---

an impact statement which specifies whether the commonwealth agrees to the request for continuance, whether the child or the child's representative agrees to such request, and the effect, if any, the granting of the continuance will have on the child. In ruling on any motion or request for continuance or other delay, the court shall consider and give weight to any possible adverse impact that a delay or continuance may have on the child. Prior to issuing an order on a motion for continuance or delay, the court shall make written findings of fact concerning the impact on the child of continuing or delaying the case.”); Mo. Ann. Stat. § 491.710 (“In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.”); Nev. Rev. Stat. Ann. § 174.515(3) (“If the trial involves acts committed against a child less than 16 years of age or involving acts witnessed by a child less than 16 years of age, the court may consider any adverse effect a continuance or other postponement might have upon the mental or emotional health or well-being of the child. The court may deny a continuance or other postponement if the delay will adversely affect the mental or emotional health or well-being of the child.”); N.H. Rev. Stat. Ann. § 632-A:9 (“In ruling on any motion or request for a delay or continuance of proceedings [in a case involving a victim 16 years of age or younger], the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim.”); N.J. Stat. Ann. § 2A:163-5 (“In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim.”); N.Y. Exec. Law § 642-a(3) (“In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.”); N.D. Cent. Code Ann. § 12.1-35-05 (“In ruling on any motion or other request for a delay or a continuance of proceedings [in a case involving a child-victim], the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim[.]”); Or. Rev. Stat. Ann. § 44.545(1) (“When determining whether or not to grant a continuance [in a case involving a child-victim], the judge shall take into consideration the age of the child and the potential adverse impact the delay may have on the well-being of the child. The court shall make written findings of fact and conclusions of law when granting a continuance.”); R.I. Gen. Laws Ann. § 11-37-11.2 (“In ruling on any motion or request for a delay or continuance of proceedings [in a case involving a child-victim], the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim or witness[.]”); Tex. Code Crim. Proc. Ann. art. 56A.051(a)(13) (providing that victims of assault or sexual assault who are younger than 17 have “the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by the defendant’s attorney, the court shall state on the record the reason for granting or denying the continuance”); Wash. Rev. Code Ann. § 10.46.085 (“When a defendant is charged with a crime which constitutes a violation of RCW 9A.64.020 [incest] or chapter 9.68 [obscenity and pornography], 9.68A [sexual exploitation of children], or 9A.44 RCW [sex offenses], and the alleged victim of the crime is a person under the age of eighteen years, neither the defendant nor the prosecuting attorney may agree to extend the originally scheduled trial date unless the court within its discretion finds that there are substantial and compelling reasons for a continuance of the trial date and that the benefit of the postponement outweighs the detriment to the victim. The court may consider the testimony of lay witnesses and of expert witnesses, if available, regarding the impact of the continuance on the victim.”); Wis. Stat. Ann. § 971.105 (“In ruling on any motion or other request for a delay or continuance of proceedings [in a case involving a child-victim], the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.”).

<sup>104</sup> See, e.g., Cal. Penal Code § 1048(b)(1) (“In . . . actions [involving victims age 70 or older or victims who are dependent adults], continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.”); Mich. Comp. Laws § 780.759(1)(b)–(d), (2) (providing that “a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be . . . [a] victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree[,] [s]ixty five years of age or older[,] [or] [a]n individual with a disability that inhibits the individual’s ability to attend court or participate in the proceeding,” and that, upon such a motion, “[t]he chief judge. . . shall set a hearing date within 14 days of the date of the filing of the motion[,] [n]otice shall be made pursuant to the Michigan court rules[,] [and] [i]f the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing”); Minn. Stat. Ann. § 611A.033(d) (“In a criminal proceeding in which a vulnerable adult, as defined in section 609.232, subdivision 11, is a victim, the state may move the court for a speedy trial. The court, after consideration of the age and health of the victim, may grant a speedy trial. The motion may be filed and served with

---

the complaint or any time after the complaint is filed and served.”); N.H. Rev. Stat. Ann. § 632-A:9 (“In any action under this chapter involving . . . a victim 65 years of age or older, the court and the department of justice shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding. In ruling on any motion or request for a delay or continuance of proceedings, the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim . . . who is . . . 65 years of age or older.”); R.I. Gen. Laws Ann. § 11-37-11.2 (“In any action under this chapter involving . . . a victim sixty-five (65) years or older, the court and the attorney general’s office shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding. In ruling on any motion or request for a delay or continuance of proceedings, the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim or witness. . . .”).

<sup>105</sup> The right to fair treatment gives victims a voice with regarding practices within the criminal justice system that jeopardize their rights and interests, such as scheduling decisions. See The Honorable Jon Kyl et. al, *On the Wings of Their Angels: The Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims’ Rights Act*, 9 Lewis & Clark L. Rev. 581, 613 (2005) (“[A victim’s] right to fairness requires, for example, that the victim be given the opportunity to be heard on the matter of a delay requested by the defendant, especially in light of the victim’s right to proceedings free from unreasonable delay.”). Additionally, given the significant harms that victims can suffer as a result of delayed proceedings, any unreasonable delay also implicates their right to be treated fairly. See Craig Peyton Gaumer, *Protecting the Innocent: Victim-Witness Rights in Illinois*, 83 Ill. B.J. 568, 574 (1995) (recognizing that “[i]n cases where a lengthy pretrial delay might force a victim of violent crime to continually relive the trauma of the crime in trial preparation, the rights to a timely disposition of the case and to be treated with fairness” may authorize the prosecution’s use of alternative means of testimony, such as video depositions); *United States v. Sampson*, 68 F. Supp. 3d 233, 237 (D. Mass. 2014) (recognizing that the court’s discretion to grant a continuance implicates the victim’s federal statutory rights, pursuant to the Crime Victims’ Rights Act, 18 U.S.C. § 3771, to proceedings free from unreasonable delay and to be treated with fairness and respect for victims’ dignity and privacy).

<sup>106</sup> See, e.g., Ariz. Rev. Stat. Ann. § 13-4435(A) (“In any criminal proceeding, the court, prosecutor and law enforcement officials shall take appropriate action to ensure a speedy trial for the victim.”); Del. Code Ann. tit. 11, § 9404(a) (“The court shall consider the interest of the victim in a speedy prosecution.”); Miss. Code Ann. § 99-43-19 (“The victim shall have the right to a final disposition of the criminal proceeding free from unreasonable delay. To effectuate this right, the court, in determining whether to grant any continuance, should make every reasonable effort to consider whether granting such continuance shall be prejudicial to the victim.”); Vt. Stat. Ann. tit. 13, § 5312(b) (requiring courts to consider victims’ objections to delays in proceedings).

<sup>107</sup> See 150 Cong. Rec. 24269 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein) (stating that the federal CVRA right to proceedings free from unreasonable delay “should be interpreted so that any decision to continue a criminal case should include reasonable consideration of the rights under this section”); 150 Cong. Rec. S10910 (daily ed. Oct. 9, 2004) (statement of Sen. Kyl) (stating that the federal CVRA right to proceedings free from unreasonable delay “should be interpreted so that any decision to schedule, reschedule, or continue criminal cases should include victim input through the victim’s assertion of the right to be free from unreasonable delay”); see, e.g., *United States v. Biggs*, 431 F. Supp. 3d 1190, 1192 (D. Or. 2018) (considering, when addressing defendant’s request for a trial continuance, *inter alia*, the victims’ legal rights and interests, including their federal right under the Crime Victims’ Rights Act (CVRA), 18 U.S.C. § 3771, to proceedings free from unreasonable delay and their right, under 18 U.S.C. § 3509(j), as children in a case of special public importance, to a speedy trial); *United States v. Martinez*, No. CR-13-2075-RHW-1, 2013 WL 11318858, at \*2 (E.D. Wash. Nov. 20, 2013) (denying defendant’s motion for a continuance upon considering, *inter alia*, objections of the victim’s family to the continuance and their CVRA right to proceedings free from unreasonable delay); *State v. Ripley*, 766 N.W.2d 465 (N.D. 2009) (concluding that the trial court did not abuse its discretion in holding that defendant was not entitled to a continuance where the trial court based its decision upon, *inter alia*, the victim’s right to a prompt disposition).

<sup>108</sup> Restitution is distinct from other avenues of financial recovery for victims’ losses, such as crime victim compensation and damages obtained through civil litigation. Crime victim compensation is money that the government pays to qualifying victims to compensate them for out-of-pocket expenses related to their victimization. Victims in every state have the right to apply for crime victim compensation. See generally Nat’l Assn. of Crime Victim Compensation Boards, <https://nacvcb.org> (providing information regarding state crime victim compensation programs). Civil damages are money awarded after an offender is found liable to the plaintiff-victim in a civil lawsuit. Civil damages can be compensatory and punitive in nature. For additional information about crime victim compensation and the differences between restitution and other forms of financial recovery for crime victims, see

---

*Crime Victim Compensation: A Valuable Resource for Victim Recovery*, NCVLI (2016), <https://law.lclark.edu/live/files/25182-ncvli-newsletter---victim-compensation-processpdf>.

<sup>109</sup> See generally *Fundamentals of Victims' Rights: A Victim's Right to Restitution*, NCVLI Victim Law Bulletin 1 (2011), <http://law.lclark.edu/live/files/11821-fundamentals-of-victims-rights-a-victims-right-to> (providing an historical overview of restitution within colonial America and the United States and discussing the multiple rationales supporting restitution).

<sup>110</sup> See *United States v. Simmonds*, 235 F.3d 826, 831 (3d Cir. 2000) (observing that “the primary and overarching goal” of the federal Mandatory Victims Restitution Act (MVRA), 18 U.S.C. § 3663A, is to “fully compensate these victims for their losses and to restore these victims to their original state of well-being”); *People v. Jennings*, 26 Cal. Rptr. 3d 709, 719 (Cal. Ct. App. 2005) (observing that “the primary purpose of victim restitution is to fully reimburse the victim for his or her economic losses”); *Huml v. Vlazny*, 716 N.W.2d 807, 813 (Wis. 2006) (stating that “[t]he primary purpose of restitution . . . is to compensate the victim, thereby advancing society’s interest in seeing victims made whole”).

<sup>111</sup> See, e.g., 18 U.S.C. § 3771(a)(6) (affording victims “[t]he right to full and timely restitution as provided by law”); Alaska Const. art. I, § 24 (affording victims “the right to restitution from the accused”); Ariz. Const. art. II, § 2.1(A)(8) (affording victims the right “[t]o receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury”); Cal. Const. art. I, § 28(b)(13) (affording victims the right to “[t]o restitution”); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(h) (affording victims the right to have the court order restitution for pecuniary damages that resulted from the commission of a crime); Conn. Const. art. I, § 8(b)(9) (affording victims “the right to restitution which shall be enforceable in the same manner as any other cause of action or as otherwise provided by law”); D.C. Code § 23-1901(b)(6) (affording victims the right to “[a]n order of restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury”); Fla. Const. art. I, § 16(b)(9) (affording victims “[t]he right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct”); Idaho Const. art. I, § 22(7) (affording victims the right “[t]o restitution, as provided by law, from the person committing the offense that caused the victim’s loss”); Ga. Code Ann. § 17-17-1(7) (affording victims “[t]he right to restitution as provided by law”); Ill. Const. art. I, § 8.1(a)(12) (affording victims “[t]he right to restitution”); 725 Ill. Comp. Stat. Ann. 120/4(a)(10) (affording victims the right “[t]o restitution”); Ind. Code Ann. § 35-40-5-7 (affording victims “the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim”); Iowa Code Ann. § 915.100 (affording victims the right to restitution); Ky. Const. § 26A (affording victims “the right to full restitution to be paid by the convicted or adjudicated party in a manner to be determined by the court, except that in the case of a juvenile offender the court shall determine the amount and manner of paying the restitution taking into consideration the best interests of the juvenile offender and the victim”); Ky. Rev. Stat. § 421.5001(11) (affording victims the right to “full restitution”); La. Const. art. I, § 25 (affording victims “the right to seek restitution”); Mich. Const. art. I, § 24(1) (affording victims “[t]he right to restitution”); La. Stat. Ann. § 46:1844(M)(1) (affording victims the right to request and to receive restitution); Mass. Gen. Laws Ann. ch. 258B, § 3(o) (providing that victims have the right “to request that restitution be an element of the final disposition of a case”); Mich. Comp. Laws Ann. § 780.766 (detailing victims’ right to restitution in felony cases); Mich. Comp. Laws Ann. § 780.826 (detailing victims’ right to restitution in misdemeanor cases); Mo. Const. art. I, § 32(1)(4) (affording victims “[t]he right to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law”); Nev. Const. art. I, § 8A(1)(l) (affording victims the right “[t]o full and timely restitution”); N.H. Rev. Stat. § 21-M:8-k(II) (affording victims “[t]he right to full and timely restitution [as granted under state law]”); N.M. Const. art. II, § 24(A)(8) (affording “[a] victim of arson resulting in bodily injury, aggravated arson, aggravated assault, aggravated battery, dangerous use of explosives, negligent use of a deadly weapon, murder, voluntary manslaughter, involuntary manslaughter, kidnapping, criminal sexual penetration, criminal sexual contact of a minor, homicide by vehicle, great bodily injury by vehicle or abandonment or abuse of a child . . . the right to restitution from the person convicted of the criminal conduct that caused the victim’s loss or injury”); N.C. Const. art. I, § 37(1a)(c) (affording victims of person crimes and felony property crimes “[t]he right to receive restitution in a reasonably timely manner, when ordered by the court”); N.D. Const. art. I, § 25(n) (affording victims “[t]he right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct.”); Ohio Const. art. I, § 10a(A)(7) (affording victims the right “to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim”); Okla. Const. art. II, § 34(A) (affording victims the right “to full and timely restitution”); Or. Const. art. I, § 42(1)(d) (affording victims “[t]he right to receive prompt restitution from the convicted criminal who caused the victim’s loss or injury”); 25 Laws P.R. Ann. § 973a(q) (affording victims’ the right to restitution in cases in which Puerto Rico law allows for it); S.C. Const. art. I, § 24(A)(9) (affording victims the right to “receive prompt and full

---

restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury, including both adult and juvenile offenders”); S.D. Const. art. VI, § 29(14) (affording victims “[t]he right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal conduct and as provided by law for all losses suffered as a result of delinquent conduct”); Tenn. Const. art. I, § 35(7) (affording victims “[t]he right to restitution from the offender”); Tex. Const. art. I, § 30(b)(4) (affording victims, upon request, “the right to restitution”); Utah Code Ann. § 77-37-3(1)(e) (stating that the bill of rights for victims includes the right of victims to “seek restitution or reparations, including medical costs as provided in [state statutes governing restitution criteria and order issuance]”); V.I. Code Ann. 34 § 203(d)(3) (affording crime victims “the right to receive restitution for expenses or property loss incurred as a result of the crime”); Wis. Const. art. I, § 9m(2)(m) (affording victims the right “[t]o full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution”); Wis. Stat. Ann. § 950.04(1v)(q) (guaranteeing victims the right to restitution, pursuant to other state statutes); *see also* Va. Const. art. I, § 8A(6) (stating that the General Assembly may afford victims “[t]he right to restitution”); Haw. Rev. Stat. § 801D-4(d) (stating, within the state’s bill of rights for victims, that payment of restitution is a precondition for release on parole).

<sup>112</sup> *See, e.g.*, 18 U.S.C. § 3664; Ala. Code §§ 15-18-65 through 15-18-78 (Restitution for Victims of Crime); Ariz. Rev. Stat. Ann. §§ 13-801 through 13-825 (Restitution and Fines); Cal. Penal Code § 1202.4; Conn. Gen. Stat. Ann. § 53a-28(c); Fla. Stat. Ann. § 775.089; Haw. Rev. Stat. Ann. § 706-646; 730 Ill. Comp. Stat. Ann. 5/5-5-6; Kan. Stat. Ann. § 21-6604(b)(1); La. Code Crim. Proc. Ann. art. 883.2; Ohio Rev. Code Ann. § 2929.18(A)(1); Or. Rev. Stat. § 137.106; S.C. Code Ann. § 17-25-322; Vt. Stat. Ann. tit. 13, § 7043.

<sup>113</sup> *See, e.g.*, Ariz. Rev. Stat. Ann. § 12-253(4) (detailing probation officer’s restitution-related responsibilities regarding the preparation of a presentence report); Fla. Stat. Ann. § 947.181 (authorizing restitution as a condition of parole); Fla. Stat. Ann. § 948.032 (authorizing restitution as a condition of probation); Fla. Admin. Code R. 23-21.0165(2) (establishing regulations governing restitution as a condition of parole); Fla. Admin. Code R. (establishing regulations governing probation and restitution centers); Mich. Comp. Laws Ann. § 791.236(5) (requiring parole order to contain a condition to pay restitution).

<sup>114</sup> *See, e.g.*, Fla. Stat. Ann. § 945.31 (establishing procedures for the Department of Corrections to collect and disburse restitution).

<sup>115</sup> *See, e.g.*, Fed. R. Crim. Proc. Rule 32(c)(1)(B), (d)(2)(D); Alaska R. Crim. Proc. Rule 32.1(b)(2), (c)(2); Alaska R. Crim. Proc. Rule 32.6; Ky. R. Crim. Proc. Rule 11.06; N.H. R. Crim. Proc. Rule 29(e); Vt. R. Crim. Proc. Rule 32(g).

<sup>116</sup> *See, e.g.*, Ariz. Code of Jud. Admin § 3-401; Utah R. Jud. Admin. Rule 6-303.

<sup>117</sup> *See, e.g.*, N.J. Admin. Code § 13:75-9.2; Utah Admin. Code § R671-403-6; 19-1 Vt. Code R. §§ 1:I through 1:X.

<sup>118</sup> *See, e.g.*, Fla. Stat. 7 J. Cir. Cr.-2017-024 (order establishing general priorities for, *inter alia*, restitution disbursement); Fla. Stat. 15 J. Cir. 4.407 (order establishing procedure for distribution of unclaimed restitution).

<sup>119</sup> *See, e.g.*, 18 U.S.C. § 5B1.3; 18 U.S.C. § 5D1.3.

<sup>120</sup> *See, e.g.*, 18 U.S.C. § 2264(a) (restitution for victims of domestic violence and stalking); 18 U.S.C. § 2327(a) (restitution for victims of telemarketing and email marketing fraud); 18 U.S.C. § 2421A(d) (restitution for victims of the promotion or facilitation of prostitution and reckless disregard that conduct contributed to sex trafficking); 18 U.S.C. § 2429(a) (restitution for victims transportation or travel for unlawful sexual purposes); Cal. Penal Code § 186.11 (restitution in cases involving multiple fraud and embezzlement felonies); Cal. Penal Code § 600(e) (restitution for victims of willful and malicious harm or interference with horses or dogs used by police officers or volunteers); Fla. Stat. Ann. § 775.0844(8) (restitution for victims of white collar crime); Fla. Stat. Ann. § 817.02(2)(a) (restitution for offenses related to obtaining property by false personation); Ky. Rev. Stat. Ann. § 189.2329(2) (restitution for owners of temporary traffic control devices damaged by prohibited conduct); La. Stat. Ann. § 539.3 (restitution for certain sex offenses); N.H. Rev. Stat. § 638:26 (restitution for victims of identity fraud); Ohio Rev. Code Ann. § 901.511(D) (restitution for offenses involving agricultural products or equipment); Or. Rev. Stat. Ann. § 167.385(5) (restitution for victims of unauthorized use of livestock animal); *Survey of State Statutes Explicitly Providing for Criminal Restitution for Offenses Involving Working Dogs*, NCVLI (2014), <https://law.lclark.edu/live/files/17837-50-state-chartexplicit-restitution-provisions-for> (providing examples of state statutes governing restitution when offense involves working dogs).

<sup>121</sup> *See, e.g.*, 18 U.S.C. § 1593(a); Ariz. Rev. Stat. Ann. § 13-1309; 720 Ill. Comp. Stat. Ann. 5/10-9(g); Mich. Comp. Laws Ann. § 780.766b; Vt. Stat. Ann. tit. 13, § 2657.

<sup>122</sup> *See, e.g.*, 18 U.S.C. § 2259(a) (restitution for victims of child sexual exploitation); Ohio Rev. Code Ann. § 2919.22 (restitution for victims of child endangerment and other offenses); W. Va. Ann. Code § 61-8C-4 (restitution for victims of filming of sexual explicit conduct of minors).

---

<sup>123</sup> See, e.g., 18 U.S.C. § 1593; 18 U.S.C. § 2259; 18 U.S.C. § 2327; 18 U.S.C. § 2421A; 18 U.S.C. § 2429; 18 U.S.C. § 3663A; 18 U.S.C. § 3771(a)(6).

<sup>124</sup> See, e.g., Alaska Const. art. I, § 24; Ala. Code § 15-18-67; Alaska Stat. Ann. § 12.55.045(a); Ariz. Const. art. II, § 2.1(A)(8); Ariz. Rev. Stat. Ann. § 13-603(C); Cal. Const. art. I, § 28(b)(13); Cal. Penal Code § 1202.4(f)(3); Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(h); Conn. Const. art. I, § 8(b)(9); Conn. Gen. Stat. Ann. § 53a-28(c); Del. Code Ann. tit. 11, § 4204(c)(9); D.C. Code § 23-1901(b)(6); Fla. Const. art. I, § 16(b)(9); Fla. Stat. Ann. § 775.089(1)(a); Ga. Code Ann. § 17-17-1(7); Idaho Code Ann. § 19-5304(2); Ill. Const. art. I, § 8.1(a)(12); 725 Ill. Comp. Stat. Ann. 120/4(a)(10); Iowa Code Ann. § 910.2(1)(a); Kan. Stat. Ann. § 21-6604(b)(1); Ky. Const. § 26A; Ky. Rev. Stat. Ann. § 532.032; La. Const. art. I, § 25; La. Code Crim. Proc. Ann. art. 883.2(A); Mich. Const. art. I, § 24(1); Mich. Comp. Laws Ann. § 780.766(2); Mich. Comp. Laws Ann. § 780.826(2); Minn. Stat. Ann. § 611A.04(1)(a); Mont. Code Ann. § 46-18-241(1); Nev. Const. art. I, § 8A(1)(l); N.J. Stat. Ann. § 2C:44-2(b); N.C. Const. art. I, § 37(1a)(c); N.C. Gen. Stat. Ann. § 15A-1340.34(b); 22 Okla. Stat. Ann. § 991f(C)(1); Ohio Const. art. I, § 10a(A)(7); Okla. Const. art. II, § 34(A); Or. Rev. Stat. Ann. § 137.106(1)(a); 18 Pa. Stat. § 11.201(6); R.I. Const. art. I, § 23; S.C. Code Ann. § 17-25-322; S.D. Const. art. VI, § 29(14); Tex. Const. art. I, § 30(b)(4); Utah Code Ann. § 76-3-201(4)(a); Va. Const. art. I, § 8-A(5); W. Va. Code § 61-11A-4(a); Wis. Stat. Ann. § 973.20(1r); Wyo. Stat. Ann. § 7-9-102.

<sup>125</sup> See, e.g., Ariz. Const. art. II, § 2.1(A)(8) (affording victims the right “[t]o receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim’s loss or injury”); Cal. Const. art. I, § 28(b)(13)(B) (guaranteeing victims the right to restitution and stating that “[r]estitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss”); Fla. Const. art. I, § 16(b)(9) (recognizing the right to “full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct”); Or. Rev. Stat. Ann. § 137.106(1)(a) (requiring courts to order restitution when a victim suffers economic damages).

<sup>126</sup> See, e.g., N.M. Const. art. II, § 24(A)(8) (mandating restitution for victims of certain, enumerated crimes); 18 U.S.C. § 3663A(a)(1) (mandating restitution for certain, enumerated federal offenses, as well as any federal offense “in which an identifiable victim or victims has suffered a physical injury or pecuniary loss”); Ariz. Rev. Stat. Ann. § 13-1309 (mandating restitution for violations of statutes governing labor and sex trafficking); Mich. Comp. Laws Ann. § 750.395(7) (mandating restitution for victims of damage or destruction of research property); S.C. Code Ann. § 16-3-2040(A) (mandating restitution for victims of human trafficking).

<sup>127</sup> See, e.g., Iowa Code Ann. § 915.100(2)(a)–(b) (mandating restitution in criminal cases involving adult offenders but making restitution discretionary in cases involving juvenile offenders); Ky. Const. § 26A (guaranteeing victims the right to full restitution from adult defendants and providing that, in the case of juvenile offenders, the court has discretion to determine the amount and manner of restitution); *In Interest of CM*, 409 P.3d 752, 760–62 (Haw. Ct. App. 2017) (distinguishing restitution in adult criminal proceedings, which is mandatory, from restitution in juvenile proceedings before the family court, which is discretionary).

<sup>128</sup> See, e.g., Alaska Stat. Ann. § 12.55.045(a) (mandating restitution unless the victim expressly declines it); Haw. Rev. Stat. Ann. § 706-646(2) (“The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant’s offense when requested by the victim.”); N.Y. Penal Law § 60.27(1) (requiring the court to order restitution where the victim requests it through the prosecutor or in a victim impact statement, “unless the interests of justice dictate otherwise”); Tex. Const. art. I, § 30(b)(4) (providing that victims, upon request, have the right to restitution).

<sup>129</sup> See, e.g., 18 U.S.C. § 3663A(c)(3) (stating that restitution is not mandatory “if the court finds, from facts on the record, that – (A) the number of identifiable victims is so large as to make restitution impracticable; or (B) determining complex issues of fact related to the cause or amount of the victim’s losses would complicate or prolong the sentencing process to a degree that the need to provide restitution by any victim is outweighed by the burden on the sentencing process”); Idaho Code Ann. § 19-5304(2) (“Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim.”); Kan. Stat. Ann. § 21-6604(b)(1) (mandating restitution, “unless the court finds a plan of restitution unworkable”); Me. Rev. Stat. Ann. tit. 17-A, § 2003(1) (“The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim’s financial loss and shall order restitution when appropriate.”); Wash. Rev. Code Ann. § 9.94A.753(5) (“Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section unless extraordinary circumstances exist which make restitution inappropriate in the court’s judgment and the court sets forth such circumstances in the record.”); Wis. Stat. Ann. § 973.20(1r) (mandating full restitution in cases other than

---

those involving domestic abuse, “unless the court finds substantial reason not to do so and states the reason on the record”); *see also State v. Tucker*, 465 P.3d 173, 174 (Kan. 2020) (“[R]estitution is the rule, and unworkability is the exception.”).

<sup>130</sup> *See, e.g.*, 18 U.S.C. § 3663.

<sup>131</sup> *See, e.g.*, Ark. Code Ann. § 5-4-205(a)(1); Ind. Code Ann. § 35-50-5-3(a); Md. Code Ann., Crim. Proc. § 11-603(b); Mass. Gen. Laws Ann. ch. 258B, § 3(o); Miss. Code Ann. § 99-37-3(1); Mo. Ann. Stat. § 559.105(1); Neb. Rev. Stat. Ann. § 29-2280; N.H. Rev. Stat. Ann. § 651:63(I); Vt. Stat. Ann. tit. 13 § 7043.

<sup>132</sup> *See, e.g.*, 18 U.S.C. § 2248(b)(1); 18 U.S.C. § 2259(b)(1); 18 U.S.C. § 2264(b)(1); 18 U.S.C. § 2327(b)(1); 18 U.S.C. § 2429(b)(1); 18 U.S.C. § 3664(f)(1)(A); Cal. Penal Code § 1202.4(f); Fla. Const. art. I, § 16(b)(9); Haw. Rev. Stat. Ann. § 706-646(3); Mich. Comp. Laws Ann. § 780.766(2); Mont. Code Ann. § 46-18-24(1); Ohio Const. art. I, § 10a(A)(7); Or. Rev. Stat. Ann. § 137.106(1)(a); S.C. Const. art. I, § 24(A)(9); *see also People v. Garrison*, 852 N.W.2d 45, 50–51 (Mich. 2014) (holding that ordering full restitution is mandatory and “that a restitution order must reflect the total amount of loss caused by a defendant’s criminal conduct, not some lesser amount that a sentencing court might feel is appropriate”).

<sup>133</sup> *See, e.g.*, Conn. Gen. Stat. Ann. § 53a-28(c); Wis. Stat. Ann. § 973.20(1r); Wyo. Stat. Ann. § 7-9-103(c).

<sup>134</sup> *See, e.g.*, Ky. Rev. Stat. Ann. § 533.030(3); Miss. Code Ann. § 99-37-3(1); N.Y. Penal Code § 60.27(5).

<sup>135</sup> *See, e.g.*, Miss Code Ann. § 99-37-3(4); Wash. Rev. Code Ann. § 9.94A.753(5).